

Ordered, that said hearings be conducted by a member of the Commission or a duly designated officer of the Commission, and they are hereby empowered to subpoena witnesses, administer oaths and affirmations, take evidence, and require the production of any books, papers or other documents which are relevant or material to the matter under investigation; and it is further

Ordered, that such member or duly designated officer of the Commission may change the time and place of said hearings, may continue or adjourn said hearings from time to time, and may conduct the same in such manner and under such rules as by him may be deemed necessary or advisable.

By the Commission.

[SEAL]

W. C. PEET, Jr., Secretary.

[F. R. Doc. 38-1509, Filed, May 27, 1938; 10:43 a. m.]

Wednesday, June 1, 1938

No. 106

## TREASURY DEPARTMENT.

### Bureau of Narcotics.

LAW AND REGULATIONS RELATING TO THE APPEAL TO THE SECRETARY OF THE TREASURY FROM ANY ORDER, RULE OR DECISION OF THE COMMISSIONER OF NARCOTICS; AND THE COOPERATION WITH THE SEVERAL STATES IN THE INSTITUTION AND PROSECUTION OF CASES IN THE COURTS OF THE UNITED STATES AND BEFORE THE LICENSING BOARDS AND COURTS OF THE SEVERAL STATES

#### THE LAW

[In the original document as filed with the Division of the Federal Register, The National Archives, here follows the text of the Act of June 14, 1930, as amended by the Act of June 26, 1930.]

#### REGULATIONS

##### Chapter I. Appeal

SEC. 5. Any person, corporation, association, or partnership aggrieved by any order, rule, or decision of the Commissioner of Narcotics, or by his failure to rule upon or decide any matter presented to him by proper application, may appeal therefrom to the Secretary of the Treasury, under such regulations as he may prescribe, who may affirm, reverse, or modify such action or direct such action to be taken as he may deem equitable and just.

ARTICLE 1. *Appeal from decision of Commissioner.*—No appeal from any order, rule, or decision of the Commissioner of Narcotics (hereinafter referred to as the Commissioner) will be considered unless the aggrieved party (1) serves upon the Commissioner, within 10 days from the date of such order, rule, or decision, notice in writing of intention to appeal, and (2) files with the Secretary of the Treasury (hereinafter referred to as the Secretary) within 30 days from the date of such order, rule, or decision, a written petition as hereinafter provided.

ART. 2. *Appeal from failure of Commissioner to rule upon or decide matter.*—No appeal from failure of the Commissioner to rule upon or decide any matter presented to him by proper application shall be considered unless the aggrieved party (1) serves upon the Commissioner, not less than 20 days nor more than 30 days from the date of the presentation of such matter, written notice of intention to appeal, and (2) files with the Secretary, within 30 days from the date of such notice, a written petition as hereinafter provided.

ART. 3. *Extension or restriction of time.*—The Secretary may in his discretion, for cause shown, extend the foregoing time limits in any case. If the Secretary considers that the public interest requires the prompt execution or operation of any order, rule, or decision of the Commissioner, he may in his discretion further restrict the time limits, upon giving reasonable notice to such parties as he considers to be interested.

ART. 4. *Suspension of orders.*—The Commissioner shall suspend the operation of any order, rule, or decision upon

receipt of a timely notice of intention to appeal therefrom, pending the presentation of the appeal to the Secretary and his decision thereon.

ART. 5. *Petition.*—The written petition filed with the Secretary shall set forth clearly the complaint and the facts and arguments in support thereof, and may be supported by evidence in the form of affidavits, depositions, and duly authenticated documents and records.

ART. 6. *Reference to Commissioner—Additional evidence—Hearings.*—The petition shall be referred by the Secretary to the Commissioner and shall be returned by the Commissioner within 10 days from the date of receipt, unless an extension is granted, with an answer in writing and such evidence in the form of affidavits, depositions, records, and documents as the Commissioner considers appropriate. The Secretary may require additional evidence or information from the petitioner or the Commissioner, or may permit any other interested party to intervene and present additional information, evidence, and argument. If he deems it necessary, the Secretary may appoint a representative to conduct a hearing at a designated time and place to afford interested parties, their representatives, and their witnesses an opportunity to present evidence and argument. Such representative shall report promptly to the Secretary a summary of the evidence and argument thus presented, with his recommendation.

ART. 7. *Decision of the Secretary.*—The petition and answer, and all information, evidence, and argument presented will be considered by the Secretary, who will affirm, reverse, or modify the action of the Commissioner, or direct such action to be taken as the Secretary shall deem equitable and just.

#### Chapter II. Cooperation With States

SEC. 8. That the Secretary of the Treasury shall cooperate with the several States in the suppression of the abuse of narcotic drugs in their respective jurisdictions, and to that end he is authorized (1) to cooperate in the drafting of such legislation as may be needed, if any, to effect the end named, and (2) to arrange for the exchange of information concerning the use and abuse of narcotic drugs in said States and for cooperation in the institution and prosecution of cases in the courts of the United States and before the licensing boards and courts of the several States. The Secretary of the Treasury is hereby authorized to make such regulations as may be necessary to carry this section into effect.

ART. 8. *State or municipal prosecutions.*—The Commissioner may furnish to State or municipal prosecuting officers a report or statement of such information, obtained from time to time by the Bureau of Narcotics concerning a violation or suspected violation of narcotic laws, as the Commissioner may deem cognizable by the said prosecuting officers for further investigation or prosecution in their respective jurisdictions.

ART. 9. *Attendance of officers.*—The Commissioner may direct the attendance of any officer, agent, or employee of the Bureau of Narcotics who may be in possession of pertinent information, to testify as a witness in any inquiry or proceeding instituted by authority of law by or before a grand jury, municipal magistrate, or State court, where the direct object of such inquiry or proceeding is to determine whether there has been, in a particular case, a violation of the State law or Municipal ordinance relating to narcotic drugs. The Commissioner may also direct any such officer, agent, or employee to produce for examination at said inquiry or proceeding such record of the Bureau of Narcotics or copy of any part thereof as the Commissioner may deem pertinent to the particular case. The officer, agent, or employee so producing any permanent record of said Bureau for examination shall not relinquish custody or control thereof but, immediately upon conclusion of the inquiry or proceeding, shall promptly return the record to its appropriate official repository.

ART. 10. *Hearings before licensing boards or other state agencies having power to suspend or revoke licenses.*—The Commissioner may furnish to State licensing boards or other State agencies authorized by law to revoke or suspend li-

censes to practice a profession, or engage in a trade, in the course of which narcotic drugs are possessed, controlled, or dispensed; or to any State board, officer, or agency authorized by law to grant, suspend, or revoke any license or permit when, in the exercise of said authority, the narcotic drug addiction of the applicant, licentiate, or permittee, or his conviction of a violation of any law relating to narcotic drugs, may have a material bearing upon the granting, withholding, suspension, or revocation of said license or permit; such information in the possession of the Bureau of Narcotics as the Commissioner may deem appropriate to the enforcement of any State law or regulation or municipal ordinance relating to the granting, withholding, suspension, or revocation of State licenses or permits: Provided, that no information shall be furnished with respect to any case in which an offer in compromise has been accepted under authority of Sec. 3229, Revised Statutes, unless such case involves the reported narcotic drug addiction of a person who is registered or qualified for registration under the Harrison Narcotic Law, or unless the information is requested in a particular case by such State licensing board or State agency or duly qualified representative thereof, for use in the enforcement of any State law or regulation or municipal ordinance relating to the granting, withholding, suspension, or revocation of State licenses. The Commissioner may also direct the attendance, as a witness, in hearings held by such boards or agencies, of any officer, agent, or employee of the Bureau of Narcotics, and the production of records or copies thereof, subject to the same limitations, so far as applicable, as are hereinbefore provided with respect to an inquiry or proceeding instituted by or before a grand jury, municipal magistrate, or State court.

ART. 11. *General.*—Nothing herein contained shall be construed to authorize the Commissioner to furnish information, or to direct the attendance of any officer, agent, or employee to testify, relative to the possession of or traffic in narcotic drugs in any case where the litigants are private parties or where the object of the prospective inquiry, proceeding, or hearing is other than that indicated in Articles 8, 9, and 10 of these regulations.

The Commissioner shall exercise sound discretion in exercising the authority herein granted to the end that no investigation being conducted at any time under his direct or indirect supervision shall be prejudiced by the premature disclosure of facts developed by the investigation. The Commissioner shall solicit the cooperation of appropriate State and Municipal officers in arranging to execute the authority herein granted in any given case, so that there shall be a minimum of interference with or interruption to the investigative duties of any officer or agent of the Bureau of Narcotics or with the duty of such officer or agent to present properly and promptly to Federal prosecuting attorneys, grand juries, and courts such cases as the Commissioner may direct.

ART. 12. *Effective date.*—These regulations shall take effect and be in force on and after June 1, 1938, and any rule or regulation inconsistent with these regulations is repealed to the extent of such inconsistency.

ART. 13. *Promulgation of regulations.*—In pursuance of sections 5 and 8 of the Act of June 14, 1930, as amended, the foregoing regulations are hereby made and promulgated.

[SEAL]

WAYNE C. TAYLOR,  
*Acting Secretary of the Treasury.*

[F. R. Doc. 38-1532; Filed, May 31, 1938; 12:20 p. m.]

## DEPARTMENT OF THE INTERIOR.

### Division of Grazing.

#### MONTANA GRAZING DISTRICT No. 1

##### MODIFICATION

May 24, 1938.

Under and pursuant to the provisions of the act of June 28, 1934 (48 Stat. 1269), as amended by the act of June 26,

1936 (49 Stat. 1976), Departmental order of July 11, 1935, establishing Montana Grazing District No. 1, is hereby revoked so far as it affects the following-described land:

##### PRINCIPAL MERIDIAN

T. 34 N., R. 18 E., sec. 34, SE $\frac{1}{4}$ SE $\frac{1}{4}$ .

E. K. BURLEW,  
*Acting Secretary of the Interior.*

[F. R. Doc. 38-1523; Filed, May 23, 1938; 9:42 a. m.]

#### COLORADO GRAZING DISTRICT No. 3

##### MODIFICATION

May 24, 1938.

Under and pursuant to the provisions of the act of June 28, 1934 (48 Stat. 1269), as amended by the act of June 26, 1936 (49 Stat. 1976), Departmental order of April 8, 1935, establishing Colorado Grazing District No. 3, is hereby revoked so far as it affects the following-described land:

##### SIXTH PRINCIPAL MERIDIAN

T. 12 S., R. 89 W., sec. 23, W $\frac{1}{2}$ .

##### NEW MEXICO PRINCIPAL MERIDIAN

T. 46 N., R. 10 E., sec. 12, NE $\frac{1}{4}$ .

T. 49 N., R. 7 W., sec. 5, lots 3, 6, and 11, NE $\frac{1}{4}$ SW $\frac{1}{4}$ .

E. K. BURLEW,  
*Acting Secretary of the Interior.*

[F. R. Doc. 38-1524; Filed, May 23, 1938; 9:42 a. m.]

#### General Land Office.

[Circular 1237a]

REGULATIONS GOVERNING RIGHTS OF WAY FOR CANALS, DITCHES, RESERVOIRS, WATER PIPE LINES, TELEPHONES AND TELEGRAPH LINES, TRAMROADS, ROADS AND HIGHWAYS, OIL AND GAS PIPE LINES, ETC.

1. *Application.*—No special form is required, but it should be filed at the land office for the district in which the land is located, should state the act invoked and the primary purpose for which the project is to be used. If there is no local land office, the application should be filed with the Commissioner of the General Land Office, Washington, D. C.

2. *Showing required of corporations.*—Application by a private corporation must be accompanied by a copy of its charter or articles of incorporation, duly certified to by the proper State official of the State where the corporation was organized; also an uncertified copy.

A corporation other than a private corporation should file a copy of the law under which it was formed and due proof of organization under the same.

When the project is in a State other than that in which the corporation was incorporated, it must submit a certificate of the Secretary of State or other proper official of the State in which the project is located, showing compliance with the laws relating to foreign corporations.

3. *Showing required of individuals or association of individuals.*—Application by an individual under any of the acts, except the act of March 3, 1891, and the acts amendatory or supplemental thereto, must be accompanied by affidavit of citizenship if the applicant is native born, or if a naturalized citizen, by proof of naturalization. Application by an association must be accompanied by a certified copy of the articles of association, if any; if there be none, the fact must be stated over the signature of each member of the association. Each member must furnish evidence of citizenship where it would be required if he were applying individually.

4. *Evidence which must accompany application.*—Each application must be accompanied by the following data:

(a) A map prepared on tracing linen, in duplicate, showing the survey of the right-of-way or site properly located with respect to the public-land surveys so that said right-

of-way or site may be accurately located on the ground by any competent engineer or land surveyor. The map should comply with the following requirements:

The scale should be 2,000 feet to the inch for canals, ditches, pipe lines, transmission lines, etc., and 1,000 feet to the inch for reservoirs, except where a larger scale is required to properly represent the details of the proposed developments, in which case the scales should be 1,000 feet to the inch and 500 feet to the inch, respectively.

Courses and distances of the center line of the right-of-way or traverse line of the reservoir should be given; the courses referred to the true meridian either by deflection from a line of known bearing or by independent observation, and the distances in feet and decimals thereof. Station numbers with plus distances at deflection points on the traverse line should be shown.

The initial and terminal points of the survey should be accurately connected by course and distance to the nearest corner of the public-land surveys, unless that corner is more than six miles distant, in which case the connection will be made to some prominent natural object or permanent monument, which can be readily recognized and recovered. The station number and plus distance to the point of intersection with a line of the public-land surveys should be ascertained and noted, together with the course and distance along the section line to the nearest existing corner, at a sufficient number of points throughout the township to permit accurate platting of the relative position of the right-of-way to the public-land survey.

All subdivisions of the public-land surveys within the limits of the survey should be shown in their entirety, based upon the official subsisting plats with the subdivision, section, township, and range clearly marked.

The width of the canal, ditch, or lateral at highwater line should be given and if not of uniform width, the location and amount of the change must be definitely shown. In the case of a pipe line, the diameter should be given. For reservoirs, the capacity in acre-feet, the area within the highwater line, the source of the water supply, and the location and height of the dam must be shown.

Each copy of the map should bear upon its face an affidavit of the engineer who makes the survey and the certificate of the applicant. See forms 1 and 2 on page ( ) which should be modified so as to be appropriate to the act invoked and the nature of the project.

(b) Evidence of water right, if the project involves the storage, diversion, or conveyance of water. Control and jurisdiction over the appropriation of water is vested in the State authorities. The applicant, therefore, must file evidence, obtained from the proper State official, that he has the right to appropriate the water to be stored, diverted, or conveyed.

5. *Oregon and California Railroad and Coos Bay Wagon Road lands (Oregon).*—All applications for rights of way for the construction and operation of any project over Oregon and California Railroad lands, title to which was revested in the United States by the act of June 9, 1916 (39 Stat. 218), and reconveyed Coos Bay Wagon Road lands, act of February 26, 1919 (40 Stat. 1179), must be accompanied by a stipulation executed by the applicant, agreeing to pay to the United States, by certified check drawn in favor of the Commissioner of the General Land Office, within 30 days from receipt of written notice to do so from the District Cadastral Engineer, such sum of money as may be determined by him to be fair compensation for the Government timber cut, removed or destroyed in the construction and operation of the project. Such applications should also contain an affirmative showing that favorable action thereon will not adversely affect or impair watershed protection, stream-flow regulation, and other conservation features enumerated in the act of August 28, 1937 (50 Stat. 874), amending the acts of June 9, 1916, and February 26, 1919, supra.

6. *Proposed or existing national forest.*—Whenever a right-of-way is through or in a national forest, or any area which the Secretary of Agriculture has recommended

for inclusion within a national forest, the applicant must enter into such stipulations and execute such bond as the Forest Service may require for the protection of such existing or proposed national forest. No construction will be allowed in an existing or proposed national forest until an application for right-of-way has been regularly filed and approved by the Secretary of the Interior, or unless permission for such construction work has been specifically given.

7. *National parks.*—The act of March 3, 1921 (41 Stat. 1353), provides, inter alia:

"That hereafter no permit, license, lease, or authorization for dams, conduits, reservoirs, power houses, transmission lines, or other works for storage or carriage of water, or for the development, transmission or utilization of power within the limits as now constituted of any national park or national monument, shall be granted or made without specific authority of Congress, etc."

8. *Action on application.*—When an application is filed, the register will place on the papers and accompanying maps, the serial number, the name of the office, and the date of filing. Notations will be made on the local office records opposite each unpatented tract affected by the right-of-way or site, giving serial number, date of filing, and the name of the applicant. The register will certify on each map, over his written signature, that unpatented land is affected. If no unpatented land is affected, the register will return the map and duplicate to the applicant with notice of that fact.

(a) The General Land Office shall request the Geological Survey and the Bureau of Reclamation to make reports in connection with all right-of-way applications involving the diversion, storage, or conveyance of water and shall request the Geological Survey for reports in connection with all right-of-way applications under the oil and gas leasing act. Requests by the General Land Office for reports from all Bureaus or Departments shall be made in connection with all right-of-way applications affecting lands in withdrawals or reservations in which the Bureau or Department might be interested. Upon the approval of a map by the Secretary of the Interior, the duplicate copy will be sent to the register who will mark upon the township plats the line of the right-of-way or site as shown on the approved map. The register will also note the approval in ink on the tract books, opposite each legal subdivision affected, with a reference to the act mentioned on the map.

9. *Proof of construction.*—A period of five years from the date of the approval of a map is usually allowed for construction. Upon completion of construction, proof thereof should be filed in the local office, consisting of an affidavit of the person in charge of the construction or who has checked over the construction, and the certificate of the grantee. Forms 3 and 4 for the affidavit and certificate are shown on page ( ). The forms should be modified so as to be appropriate to the act and to the nature of the project. If, in constructing, there has been a substantial deviation from the location shown on the approved map, the party in interest must file a duly executed relinquishment of the unused portion of the right-of-way or site, accompanied by a map of amended location of the right-of-way or site of the project as actually constructed. The map of amended location must be prepared in accordance with regulation 4. The relinquishment may be prepared so as to become effective upon departmental approval of the map of amended location.

Upon expiration of the 5-year period allowed for construction, if there has been no construction, grants of rights-of-way or sites are subject to cancellation through court proceedings. A permit may be revoked by the Secretary for non-construction or abandonment.

RIGHTS OF WAY THROUGH PUBLIC LANDS AND RESERVATIONS FOR CANALS, DITCHES, AND RESERVOIRS

10. *Statutory authority.*—Section 18 of the act of March 3, 1891 (26 Stat. 1095), as amended by the acts of March 4, 1917 (39 Stat. 1197), and May 28, 1926 (44 Stat. 668), 43 U. S. C. 946, authorizes the Secretary of the Interior to grant rights-of-way for irrigation and drainage purposes to

the extent of the ground occupied by the water of any reservoirs and any canals and laterals and fifty feet on each side of the marginal limits thereof and such additional right-of-way as may be deemed necessary for the proper operation and maintenance of said reservoirs, canals, and laterals.

Section 19 of the act of March 3, 1891, 43 U. S. C. 947, provides for the filing of maps by applicants desiring to secure the benefits of said act; that upon the approval thereof by the Secretary of the Interior, the same shall be noted upon the records and thereafter all lands affected by such right-of-way shall be disposed of subject to such right-of-way.

Section 20 of the act of March 3, 1891, 43 U. S. C. 948, provides, that this act shall apply to all canals, ditches, or reservoirs heretofore or hereafter constructed, whether by corporations, individuals, or association of individuals, on the filing of the certificates and maps as therein provided; that if any section of the project is not completed within five years after location, the right-of-way granted shall be forfeited as to the uncompleted canal, ditch, or reservoir, to the extent that the same is not completed at the date of forfeiture.

Section 21 of the act of March 3, 1891, 43 U. S. C. 949, provides that nothing in this act shall authorize the occupancy of such right-of-way except for the purpose for which the grant is made, and then only so far as may be necessary for the construction, maintenance, and care of the project.

11. *Statute construed.*—The act of March 3, 1891, as amended, is applicable to rights-of-way for pipe lines, flumes, or other conduits, although they are not specifically mentioned in the act, if water is conveyed primarily for irrigation or drainage purposes.

Material on adjacent lands. The word "adjacent," as used in section 18 of the act, in connection with the right to take material for construction from the public lands, must be construed according to the conditions of each case (28 L. D. 439). The right extends only to construction, and no public timber or material may be taken or used for repair or improvements (14 L. D. 566). These decisions were rendered under the railroad right-of-way act and are applied to this act since the words are the same in both.

12. *Use subsidiary to main purpose of irrigation.*—Section 2 of the act of May 11, 1898 (30 Stat. 404), authorizes the use of rights-of-way granted under the act of March 3, 1891, for purposes subsidiary to the main purpose of irrigation.

13. *Caretaker's building sites.*—The act of March 1, 1921 (41 Stat. 1194), authorizes the Secretary of the Interior, except as to lands within national forests, to grant permits or easements for not to exceed five acres of ground adjoining the right-of-way at each of the locations, to be determined by the Secretary of the Interior, to be used for the erection thereon of dwellings or other buildings or corrals for the convenience of those engaged in the care and management of the works provided for by the act of March 3, 1891, as amended.

14. *Showing required for additional right-of-way.*—The act of May 28, 1926 (44 Stat. 668), amended section 18 of the act of March 3, 1891, so as to authorize, if needed, right-of-way additional to the 50 feet allowed by the section for operation and maintenance of reservoirs, etc. To obtain such additional right-of-way, explanatory showing must accompany the application. This should consist of an affidavit by the applicant's engineer or surveyor setting forth succinctly the extent of the additional right-of-way required and the necessity therefor. The additional right-of-way should also be shown graphically by lateral limit lines on the map filed in connection with the application. If additional right-of-way is wanted only for portions or sections of the reservoirs, canals, ditches, or laterals, the termini thereof should be fixed by engineer's survey stations in addition to the lateral limit lines.

15. *Nature of grant.*—Grants made under the act of March 3, 1891, are base fees with possibility of reverter to the Government in the event the grantee or successor ceases to use or retain the lands for the purposes for which they were granted.

All persons settling on a tract of public land, to part of which right-of-way has attached for a canal, ditch, or reservoir, etc., take the land subject to such right-of-way, and at the total area of the subdivision entered, there being no authority to make deductions in such cases. If a settler has a valid claim to land, existing at the date of filing of the map of definite location, his right is superior, and he is entitled to such reasonable measure of damages for right-of-way as may be determined by agreement or by the courts, the question being one that does not fall within the jurisdiction of this Department.

16. *Unsurveyed land.*—Maps, filed under the said act, as amended, showing canals, ditches, reservoirs, etc., lying partly upon unsurveyed land can be approved if the application and accompanying maps conform to these regulations, but the approval will only relate to that portion of the right-of-way traversing the surveyed land.

(a) Maps showing canals, ditches, reservoirs, etc., lying wholly on unsurveyed lands may be received and placed on file in the General Land Office and the local land office of the district in which the land is located, for general information. The date of filing will be noted thereon; but the maps will not be submitted to nor approved by the Secretary of the Interior as the act makes no provision for the approval of any but maps showing locations on surveyed lands. The filing of such maps will not dispense with the filing of maps after the survey of the lands and within the time specified in the act, and if the maps are regular in all respects, they will receive the Secretary's approval.

17. *Segregated reservoir sites.*—The act of February 26, 1897 (29 Stat. 599), permits the approval of applications under the act of March 3, 1891, for rights-of-way upon reservoir sites reserved under authority of the act of October 2, 1888 (25 Stat. 505, 526), and August 30, 1890 (26 Stat. 371, 391).

#### RIGHTS-OF-WAY OVER PUBLIC LANDS FOR RESERVOIRS FOR WATERING LIVESTOCK

18. *Statutory authority.*—By the act of January 13, 1897 (29 Stat. 484; 43 U. S. C. 952-953), it is provided that any person, livestock company, or transportation corporation engaged in breeding, grazing, driving, or transporting livestock may construct reservoirs upon unoccupied public lands of the United States, not mineral or otherwise reserved, for the purpose of furnishing water to such livestock, and shall have control of such reservoir, under regulations prescribed by the Secretary of the Interior, and the lands upon which the same is constructed, not exceeding one hundred and sixty acres, so long as such reservoir is maintained and water kept therein for such purposes.

19. *Declaratory statement.*—Any person, livestock company, or transportation corporation engaged in breeding, grazing, driving, or transporting livestock, desiring to construct a reservoir under the authority of this act upon unappropriated public lands of the United States, not mineral or otherwise reserved except by Executive Order No. 6910 of November 26, 1934, and amendments thereto, and Executive Order No. 6964 of February 5, 1935, as amended, or within a grazing district established under the act of June 28, 1934 (48 Stat. 1269), may file a petition, in duplicate, for the classification of the land involved, together with a declaratory statement, in the district land office for the district in which the land is located in accordance with the instructions contained in Circular No. 1353, approved June 29, 1937.

20. *Application by corporation.*—When the applicant is a corporation there shall be filed a copy of its articles of incorporation and proofs of its organization, as required in regulations 2 and 4 (b) of these regulations. If these papers are filed with the first declaratory statement made by the company, a reference thereto by its number will be sufficient in any subsequent application by the company.

The declaratory statement must be made under oath and should be drawn in accordance with Form 7 (page ), and must contain the following:

(a) The post office address of the applicant; the name of the county in which the reservoir is to be or has been constructed; the description by the smallest legal subdivisions

(40-acre tracts or lots) of the land sought to be reserved which under no circumstances must exceed 160 acres; certificate that the land is not occupied or otherwise claimed; certificate that to the best of the applicant's knowledge and belief the land is not mineral or otherwise reserved; statement of the business of the applicant, which statement shall include full and minute information concerning the extent to which he is engaged in breeding, grazing, driving, or transporting livestock, the number and kinds of such stock, the place where they are being bred or grazed, whether within an enclosure or upon unenclosed lands, and also the points from which and to which they are being driven or transported; description of the land owned or claimed by the applicant in the vicinity of the proposed reservoir and statement of its amount; certificate that no part of the land sought to be reserved is or will be fenced, that all the land will be kept open to the free use of any person desiring to water animals of any kind; and that the lands so sought to be reserved are not, by reason of their proximity to other lands reserved for reservoirs, excluded from reservation by the regulations and rulings of the Land Department.

(b) The location of the reservoir described by the smallest legal subdivision (40-acre tracts or lots), its area in acres, its capacity in gallons, the source from which water is to be obtained for such reservoir, whether there are any streams or springs within two miles of the land sought to be reserved; and, if so, where.

(c) The numbers, locations, and areas of all other reservoir sites filed upon by the applicant, especially designating those in the county in which the proposed reservoir is located.

21. *Action by the Land Department on declaratory statements and size, location, and number of reservoir sites.*—When such declaratory statement is filed, the date of filing will be noted thereon over the signature of the officer receiving it, and the statements will be numbered according to order of June 1, 1908. The register will make the usual notations on the records, in pencil, under the designation of "Reservoir Declaratory Statement, No. —," adding the date of the act. For the filing of such reservoir declaratory statement, the local officers will be authorized to charge the usual fee. (Section 2238, U. S. Rev. Stat.). The local officers will forward the declaratory statement with the regular monthly returns, with abstracts, in the usual manner. In acting upon these statements the following general rules will be applied:

(a) No reservation will be made for a reservoir of less than 250,000 gallons capacity, and for a reservoir of less than 500,000 gallons capacity, not more than 40 acres can be reserved. For a reservoir of 1,000,000 gallons capacity, not more than 80 acres can be reserved. For a reservoir of 1,000,000 gallons and less than 1,500,000 gallons capacity, not more than 120 acres can be reserved. For a reservoir of 1,500,000 gallons capacity or more, 160 acres may be reserved. In the case where the water is furnished the livestock by artificial means, such as by windmill, pump, tanks, troughs, etc., the regulations requiring a minimum capacity of 250,000 gallons may be waived upon the claimant's submitting a satisfactory showing that by such artificial means he will be able to furnish sufficient water and provide proper troughs, etc., to properly accommodate all cattle likely to water at the place in question.

(b) Not more than 160 acres shall be reserved for this purpose in any section.

(c) Not more than 160 acres shall be reserved for this purpose in one group of tracts adjoining or cornering upon each other.

(d) A distance of one-half mile must be left between any two groups of tracts which aggregate more than 160 acres.

(e) The local officers will reject any reservoir declaratory statement not in conformity with these rules.

(f) Lands so reserved shall not be fenced, but shall be kept open to the free use of any person desiring to water animals of any kind. If lands so reserved are at any time fenced or otherwise enclosed, or if they are not kept open to the free use of any person desiring to water animals of any

kind, or if the reservoir applicant attempts to use them for any other purpose, or if the reservation is not obtained for the bona fide and exclusive purpose of constructing and maintaining a reservoir thereon according to law, the declaratory statement, upon any such matter being made to appear, will be canceled and all rights thereunder be declared at an end.

(g) Notwithstanding the action of the local officers in accepting any such declaratory statement, the Commissioner of the General Land Office will reject the same if upon considering the matters set forth therein it appears that the declaratory statement is not filed in good faith for the sole purpose of accomplishing what the law authorizes to be done.

22. *Construction.*—The reservoir must be completed and constructed within two years after the filing of the declaratory statement; otherwise the declaratory statement will be subject to cancellation.

23. *Map of constructed reservoir.*—After the construction and completion of the reservoir, the applicant shall have the same accurately surveyed and mapped in accordance with regulations 4 and 9, so far as they are applicable. The map, which is not to be prepared in duplicate, must be filed in the proper local office and must bear Forms 8 and 9 (page ).

24. *Action by register.*—When the map and other papers have been filed in the local office, the date of filing will be noted thereon and the proper notations will be made on the local office records, as in the case of the declaratory statement. The register will then promptly forward the map and papers to the General Land Office.

25. *Approval of constructed project.*—The map and papers will be examined in the General Land Office to determine whether they comply with the law and the regulations, and whether the amount of land desired is warranted by the showing made in the application. If found satisfactory, they will be submitted to the Secretary of the Interior, and upon approval, the lands shown to be necessary for the proper use and enjoyment of the reservoir will be reserved from other disposition so long as the reservoir is maintained and water kept therein for the purposes named in the act. Upon the receipt of notice of such reservation from the General Land Office, the register will make the proper notations on his records and report the making thereof promptly to the General Land Office.

26. *Annual proof of maintenance.*—In order that this reservation shall be continued, it is necessary that the reservoir "shall be kept in repair and water kept therein." For this reason the owner of the reservoir will be required, during the month of January of each year, to file in the local office an affidavit to the effect that the reservoir has been kept in repair and water kept therein during the preceding year, and that all the provisions of the act have been complied with. Form 10 (page ) will be used for this affidavit. Upon failure to file such affidavit, steps will be taken looking to the revocation of the reservation of the lands.

27. *Reservoir on unsurveyed land.*—In any case where the proposed reservoir is to be located upon unsurveyed public land, the declaratory statement may be filed, the land being therein described by metes and bounds and, as well, by the description which it is believed it will bear when officially surveyed. Proof of construction must be submitted at the end of the same period of time and in the same manner as is prescribed and required in cases where the lands have been previously surveyed. Such proof should embrace the field notes and a plat of survey such as is required in cases of reservoirs on surveyed lands, with such modifications as are necessary (regulation 23).

(a) Any reservation made pursuant to this statute secures only a license to use and occupy the reserved land with and for a reservoir, and this license may endure permanently or may be of transient duration. No estate in the land is granted. For this reason it is administratively undesirable that private surveys made pursuant to the statute and these regulations shall be preserved and established by subsequent public-land surveys and approved plats thereof. When, therefore, the public-land surveys have been extended over



land covered by a reservoir declaratory statement affecting unsurveyed lands, the declarant shall adjust his survey to the lines of the official survey, showing the location of the reservoir with respect to said lines by means of properly established tie lines. Any subsequent reservation which may be ordered will be of those subdivisions thus shown to be occupied by or necessary for the proper use of the reservoir.

(b) An annual affidavit of maintenance must be submitted the same as though the reservoir had been constructed on surveyed lands. Nothing in these regulations contained shall preclude the General Land Office or the Department from requiring additional information in any case where that information is deemed proper or necessary.

#### FENCING OF STOCKWATERING RESERVOIRS

28. *Statutory authority.*—The act of Congress approved March 3, 1923 (42 Stat. 1437), amends section 1 of the act of January 13, 1897 (29 Stat. 484), so as to authorize the Secretary of the Interior, in his discretion, under such rules, regulations, and conditions as he may prescribe, upon application by such person, company, or corporation, to grant permission to fence such reservoirs constructed under the act of January 13, 1897, in order to protect livestock, to conserve water, and to preserve its quality and conditions.

This act applies only to stock-watering reservoirs which have been or may hereafter be constructed and due proof of construction filed in the General Land Office.

29. *Application for permission to fence reservoir.*—Any person, company, or corporation, desiring to secure the benefits of this act should file in the local land office an application, under oath, duly corroborated by at least two disinterested witnesses, setting forth such facts as would show that it is necessary to fence such reservoir in order to protect the livestock, to conserve water, and to preserve its quality and conditions. There should be filed with such application, and as a part thereof, a plat showing the land embraced in the reservoir as near as may be, the location of the proposed fence with respect to such reservoir, together with all gates or other openings, and roadways leading to the same. In no instance will an application be considered unless said plat shows the location of at least two gates. Said gates shall be so constructed and maintained that they may be, at all times, readily opened and closed by any person desiring to water animals of any kind and such gates shall be so placed as to be readily accessible from the road or roads nearest the reservoir, which roads shall be the ones usually traveled and, where there are no such roads whereby to govern the location of such gates, they shall be so situated as to make the reservoir readily available from the adjacent public or other range; and that there shall be posted on the gates, and elsewhere if necessary, a notice stating that the reservoir is for stock-watering purposes, located on public lands, and that the same is opened to the free use of any person desiring to water animals of any kind.

30. *Action on application.*—Upon the filing of such an application, it should be considered by the local office as an additional paper in the case and transmitted to the General Land Office by special letter under the serial number of the reservoir declaratory statement for such action as may be deemed proper.

#### RIGHTS-OF-WAY THROUGH PUBLIC LANDS AND RESERVATIONS FOR TELEPHONE AND TELEGRAPH LINES, PIPE LINES, CANALS, DITCHES, WATER PLANTS, ETC.

31. *Statutory authority.*—The act of February 15, 1901 (31 Stat. 790; 43 U. S. C. 959), authorizes the Secretary of the Interior, under such regulations as he may fix, to permit the use of rights-of-way through public lands and certain reservations of the United States, for telephone and telegraph lines, pipe lines, canals, ditches, water plants, etc., to the extent of the ground occupied by such canals, ditches, or water plants, or other works permitted thereunder, and not to exceed fifty feet on each side of the marginal limits thereof, or not to exceed fifty feet on each side of the center line of such pipe lines, telephone and telegraph lines, by any citizen, association or corporation of the United States,

where it is intended by such to exercise the use permitted under said act.

32. *Applications which may be submitted.*—Although the act of February 15, 1901, does not expressly repeal any provision of law relating to the granting of permission to use rights-of-way contained in the act of January 21, 1895, and section 1 of the act of May 11, 1898, yet in view of the general scope and purpose of the act, and of the fact that Congress has, with the exception above noted, embodied therein the main features of the former acts relative to the granting of a mere permission or license for such use, it is evident that, for the purposes of administration, the act of February 15, 1901, should control in so far as it pertains to the granting of permission to use rights-of-way for purposes therein specified. Accordingly, all applications for permission to use rights-of-way for the purposes specified in the act of February 15, 1901, must be submitted thereunder. Where, however, it is sought to acquire a right-of-way for the main purpose of irrigation as contemplated by sections 18 to 21 of the act of March 3, 1891 (26 Stat. 1095), and section 2 of the act of May 11, 1898, supra, the application must be submitted in accordance with the regulations issued under said acts.

(a) An application may be filed under the act of February 15, 1901, for a stockwatering reservoir site. An application under the act for a "water plant" site or for a pipe line right-of-way may include an area for a well to supply the water, but if, because the lands affected are within a grazing district established under the grazing act of June 28, 1934 (48 Stat. 1269), or for any other reason, the granting of a permit for a stockwatering reservoir site, or for a water plant site or for a pipe line right-of-way, would adversely affect the interests of the Government, the applications therefor will not be allowed. If the lands affected are within a grazing district, an application for a stockwatering reservoir or water well site should be filed under section 4 of said act of June 28, 1934, with the Regional Grazier, if the applicant is qualified under the section, and if the reservoir or well is necessary to the care and management of the permitted livestock and primarily for that purpose. Regulations under the said section 4 are contained in a separate circular which will be sent by the Regional Grazier upon request.

33. *No rights acquired prior to filing and approval of application.*—Application under the act of February 15, 1901, for permission to use the desired right-of-way through the public lands and parks designated in the act must be filed and approved before any rights can be claimed thereunder.

34. *Nature of permit.*—It is to be specially noted that the act of February 15, 1901, does not make a grant in the nature of an easement but authorizes a mere permit in the nature of a license, which permit may be revoked by the Secretary, or his successor, at any time in his discretion. Further, it gives no right whatever, to take from public lands, reservations, or parks adjacent to the right-of-way, any materials, earth, or stone for construction or other purposes. The final disposal by the United States of any tract traversed by a right-of-way permitted under this act shall not be considered to be a revocation of such permission in whole or in part but such final disposal shall be deemed and taken to be subject to such right-of-way until such permission shall have been specifically revoked in accordance with the provisions of said act.

35. *When application should be made to Department of Agriculture.*—Section 1 of the act of February 1, 1905 (33 Stat. 628), vested jurisdiction in the Department of Agriculture to pass upon all applications under any law of the United States providing for the granting of a permission to occupy and use lands in a national forest, provided this occupation or use is temporary, and will in no wise affect the fee or cloud the title of the United States should the reserve be discontinued.

Therefore, when it is desired to obtain permission under the act of February 15, 1901, to use a right-of-way over public lands wholly within a national forest, an application should be prepared in accordance with the instructions is-

sued by the Department of Agriculture, and should be filed with the officer in charge of such national forest.

In case the applicant desires rights and privileges upon public lands partly within and partly without a national forest, separate applications must be prepared, and the one affecting lands within the national forest filed with the forest officer and the other filed in the local land office.

**36. Buildings to be platted on map in main drawing and in separate drawing.**—When application is made for right-of-way for water plants, the location and extent of ground proposed to be occupied by buildings or other structures necessary to be used in connection therewith must be clearly designated on the map and described (forms 5 and 6, pages ( ) and ( )) by reference to course and distance from a corner of the public survey. In addition to being shown in connection with the main drawing, the buildings or other structures must be platted on the map in a separate drawing on a scale sufficiently large to show clearly their dimensions and relative positions. When two or more such proposed structures are to be located near each other, it will be sufficient to give the reference to a corner of the public survey for one of them, provided all the others are connected therewith by course and distance shown on the map. The applicant must also file an affidavit setting forth the dimensions and proposed use of each of the structures, and must show definitely that each one is necessary for a proper use of the right-of-way for the purposes contemplated in the act.

**37. Unsurveyed lands.**—Permission may be given under this act (February 15, 1901), for rights-of-way upon unsurveyed lands, maps to be prepared in accordance with the requirements of this circular.

**38. National parks.**—Whenever a right-of-way is through any of the national parks designated in the act, for purposes other than those excepted by the act of March 3, 1921, (regulation 7) the applicant must show to the satisfaction of the Department that the location and use of the right-of-way for the purposes contemplated will not interfere with the uses and purposes for which the park was originally dedicated, and will not result in damage or injury to the natural conditions of property or scenery existing therein. The applicant must also file such stipulations and bond as may be required by the Director of the National Park Service.

Whenever right-of-way within a park is desired for operations in connection with mining, quarrying, cutting timber, or manufacturing lumber, a satisfactory showing must be made of the applicant's right to engage in such operations within the park.

**39. Indian reservations.**—Applications for right-of-way, under the act of February 15, 1901, all of which is located upon land within an Indian reservation, and applications for right-of-way affecting lands within and without Indian reservations must be filed in the local land office for forwarding to the Commissioner of the General Land Office. Before such applications are transmitted to the Department, they will be submitted by the Commissioner of the General Land Office to the Commissioner of Indian Affairs for such action and recommendation as that officer may deem proper in so far as the same pertains to such Indian reservation. Attention is directed to the provisions of section 3 of the act of March 3, 1901 (31 Stat. 1083), which authorizes the granting of permanent rights-of-way, in the nature of easements, for telegraph and telephone purposes only, through Indian reservations and other Indian lands, upon payment of proper compensation for the benefit of the Indians interested therein. The provisions of the act of March 3, 1901, and the nature and character of the rights authorized to be secured thereunder differ materially from the provisions of the act on which these regulations are based and the rights authorized to be conferred thereunder. Applicants desiring to secure permanent rights-of-way through Indian reservations or other Indian lands for telegraph and telephone purposes will, therefore, be required to submit their applications under the act of March 3, 1901, supra, in accordance with the then current regulations issued thereunder. (For existing regulations under said act, see Indian Office regulations approved May 22, 1928.)

#### RIGHTS-OF-WAY OVER PUBLIC LANDS AND RESERVATIONS FOR TELEPHONE AND TELEGRAPH LINES

**40. Statutory authority.**—The act of March 4, 1911 (36 Stat. 1253; 43 U. S. C. 961), authorizes the head of the department having jurisdiction over the lands, under such regulations as may be fixed by him to permit the use of rights-of-way for a period not exceeding fifty years, over and across public lands and reservations of the United States, for telephone and telegraph lines to the extent of twenty feet on each side of the center line of such telephone and telegraph lines, by any citizen, association, or corporation of the United States, where it is intended by such to exercise the use permitted under said act.

**41. Jurisdiction over land.**—For the purposes of this statute, national parks, Indian reservations, and reservations for water power sites, irrigation, classification of lands, or other purposes, created under the withdrawal act of June 25, 1910 (36 Stat. 847), are considered to be under the jurisdiction of the Department of the Interior; military reservations under the jurisdiction of the War Department; and reservations created for the special occupancy, use, or control of other departments under the jurisdiction of such departments, respectively. The Attorney General on February 3, 1912, advised the Secretaries of the Interior and Agriculture that, for this purpose, national forests are under the jurisdiction of the Department of Agriculture (29 Op. 303).

**42. Nature of permit.**—This act, which authorizes the granting of easements for telephone and telegraph lines for stated periods not to exceed 50 years, follows, as closely as is possible in the accomplishment of its purposes, the language of the act of February 15, 1901 (31 Stat. 790), which authorizes mere revocable permits or licenses not only for such lines but for other purposes.

#### RIGHTS-OF-WAY THROUGH NATIONAL FORESTS FOR DAMS, RESERVOIRS, WATER PLANTS, DITCHES, FLUMES, PIPES, TUNNELS, AND CANALS FOR MUNICIPAL OR MINING PURPOSES

**43. Statutory authority.**—Section 4 of the act of February 1, 1905 (33 Stat. 628; 16 U. S. C. 524), grants rights-of-way through national forests to citizens and corporations of the United States, for the construction and maintenance of dams, reservoirs, water plants, pipes, tunnels, and canals, for municipal or mining purposes, during the period of the beneficial use, under such rules and regulations as may be prescribed by the Secretary of the Interior, and subject to the laws of the State or Territory in which said forests are respectively situated.

**44. Commencement of construction.**—No construction will be allowed in national forests until an application for right-of-way has been regularly filed in accordance with these regulations and has been approved by the Secretary of the Interior, or unless permission has been specifically given.

**45. Nature of grant.**—Grants made under the act are base fees with possibility of reverter to the Government in the event the grantee or successor ceases to use or retain the lands for the purposes for which they were granted. No right, whatever, is given to take any material, earth, or stone for construction or other purposes, nor is any right given to use any land outside of what is actually necessary for the construction and maintenance of the works.

**46. Water plant structures.**—When application is made for right-of-way for water plants, regulation 36 should be followed, with appropriate changes in the prescribed forms.

**47. Unsurveyed lands.**—Maps showing reservoirs, canals, water plants, etc., wholly upon unsurveyed lands, will be received and acted upon in the manner prescribed for surveyed lands.

#### RIGHTS-OF-WAY OVER PUBLIC LANDS FOR TRAMROADS, TRAMWAYS, LOGGING AND OTHER ROADS

**48. Statutory authority.**—The act of January 21, 1895 (28 Stat. 635; 43 U. S. C. 956), authorizes the Secretary of the Interior under such regulations as may be fixed by him to permit the use of rights-of-way over the public lands of the United States, for tramroads to the extent of fifty feet on

each side of the center line of the tramroad, by any citizen or association of citizens of the United States, engaged in the business of mining, or quarrying or of cutting timber and manufacturing lumber. The act does not authorize the use of rights-of-way within the limits of any park, national forest, military reservation or Indian reservation.

49. *"Tramroads" defined.*—This act has been superseded by other acts given in this circular, except as to tramroads. "Tramroads" is considered as including "tramways," narrow-gauge railroads, and wagon or motor-truck roads to be used in connection with mining, quarrying, logging, and the manufacturing of lumber.

50. *Nature of permit.*—Permission to use rights-of-way for tramroads over public lands, when granted, only confers a right in the nature of a license and is subject to all the conditions and limitations hereinbefore stated in regulation 34.

#### RIGHTS-OF-WAY OVER PUBLIC LANDS AND RESERVATIONS FOR HIGHWAYS AND ROAD-BUILDING MATERIAL SITES

51. *Statutory authority.*—Section 17 of the Federal Aid Highway Act of November 9, 1921 (42 Stat. 212; 23 U. S. C. 18), authorizes the transfer of public lands and reservations of the United States to the State highway departments on determination by the Secretary of Agriculture that such lands are necessary for the right-of-way for any highway or forest road or as a source of materials for the construction and maintenance of such roads and highways, and after his request for such transfer with a map showing the portions of such lands which it is desired to appropriate.

This statute provides that if within a period of four months after such filing the Secretary of the Interior shall not have certified to the Secretary of Agriculture that the proposed transfer of such lands is contrary to public interest or inconsistent with the object of the Government, or shall have agreed to the appropriation and transfer under conditions which he deems necessary for the protection of the Government's interest, then such land or materials may be appropriated and transferred to the State highway departments for such purposes. If and when the need for any such land or materials shall no longer exist, notice of that fact must be given by the State highway department to the Secretary of Agriculture, and such lands or materials will immediately revert to the control of the Department of the Interior.

52. *Filing of application.*—Where a highway is to be constructed or improved under the provisions of the act of November 9, 1921, and the amendment or supplements thereto, the State highway departments may take advantage of the provisions of section 17 of said act by filing application and maps with the register of the land office for the district in which the lands affected are situated, in the manner prescribed by regulations 1 and 4. Application for rights-of-way under section 17 of said act should be filed by the State highway department of the particular State and not by any political subdivision of the State. No application will be received by the register under said section 17 for right-of-way for highways or material sites affecting lands entirely within a national forest or an Indian reservation.

53. *Action on application.*—Upon receipt of an application in the local land office, filed under section 17, action thereon will be taken in accordance with regulation 8. If unpatented lands are affected, the register will forward the application and map, or set of maps, to the General Land Office and will return the duplicate map, or maps, to the State highway department which will forward them to the Bureau of Public Roads for submission to the Secretary of Agriculture for his determination that the lands are necessary for right-of-way for the highway or road-building material site purpose, as required by the act.

#### RIGHTS-OF-WAY FOR ROADS AND HIGHWAYS OVER PUBLIC LANDS

54. *Statutory authority.*—By section 2477, U. S. R. S., 43 U. S. C. 932, it is provided:

"The right of way for the construction of highways over public lands, not reserved for public uses, is hereby granted."

55. *When grant becomes effective.*—This grant becomes effective upon the construction or establishing of highways, in accordance with the State laws, over public lands not reserved for public uses. No application should be filed under the act, as no action on the part of the Federal Government is necessary.

#### RIGHTS-OF-WAY THROUGH PUBLIC LANDS AND RESERVATIONS FOR OIL AND NATURAL GAS PIPE LINES AND PUMPING PLANT SITES

56. *Statutory authority.*—Section 28 of the act of February 25, 1920 (41 Stat. 437), as amended by the act of August 21, 1935 (49 Stat. 674; 30 U. S. C. 185), authorizes the Secretary of the Interior to grant rights-of-way through the public lands, including the forest reserves of the United States, for pipe line purposes for the transportation of oil or natural gas to any applicant possessing the qualifications provided in section 1 of the act, to the extent of the ground occupied by the said pipe line and twenty feet on each side of the same under such regulations and conditions as to survey, location, application, and use as may be prescribed by him, and upon the express conditions, provisions, and limitations enumerated in said section 28.

Section 29 of said act provides, in part:

"That any permit, lease, occupation, or use permitted under this Act shall reserve to the Secretary of the Interior the right to permit upon such terms as he may determine to be just, for joint or several use, such easements or rights of way, including easements in tunnels upon, through, or in the lands leased, occupied, or used as may be necessary or appropriate to the working of the same, or of other lands containing the deposits described in this Act, and the treatment and shipment of the products thereof by or under authority of the Government, its lessees, or permittees, and for other public purposes."

57. *Qualification of applicants.*—Applications may be filed by citizens of the United States, or association of such persons, any corporation organized under the laws of the United States, or of any State or Territory, and municipalities.

58. *Use of pipe line.*—The applicant shall state in the application (preferably in the certificate written on the face of the map), the specific use, within the purview of the act, to which the pipe line is to be put, and any approval of the grant for the right-of-way shall be limited to such specific use, unless otherwise stated in the approval. No change in the use of the pipe line, other than that authorized by the approval, shall be allowed except with approval in writing first obtained from the Secretary of the Interior, and upon such terms and conditions as the Secretary may prescribe as a prerequisite to the approval of the change of use.

59. *Approval of right-of-way.*—The approval of such rights-of-way grant shall be subject to the express conditions that the use of the pipe line for the transportation of oil, gas, or other similar natural products, shall be limited to such products produced in conformity with State and Federal laws, including laws prohibiting waste.

60. *Pumping plant site.*—By opinion of December 2, 1931 (36 Op. Atty. Gen. 480), the Attorney General held that under section 28 of the act there may be granted a site for a pumping station reasonably necessary to the operation of a pipe line on a right-of-way granted under the section.

61. *Trespass.*—Any occupancy or use of public lands, including reservations, parks, or national forests, without proper authority, constitutes a trespass.

FRED W. JOHNSON,  
Commissioner, General Land Office.

I concur:

W. C. Mendenhall,  
Director of Geological Survey.

Approved, May 23, 1938

OSCAR L. CHAPMAN,  
Assistant Secretary.



FORMS<sup>1</sup>

[Forms to be placed on maps]

## FORM 1

STATE OF \_\_\_\_\_  
County of \_\_\_\_\_, ss:

\_\_\_\_\_, being duly sworn, says he is the chief engineer of (or the person employed to make the survey by) the \_\_\_\_\_ Company; that the survey of said company's (canals, ditches, and reservoirs), as described and shown on this map (being a total length of canals, ditches, and laterals of \_\_\_\_\_ miles, and a total area of reservoirs of \_\_\_\_\_ acres), was made by him (or under his direction) as chief engineer of the company (or as surveyor employed by the company) and under authority, commenced on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, and ending on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, (and that the survey of the said canals, ditches, laterals, and reservoirs) accurately represents (a proper grade line for the flow of water, and accurately represents a level line, which is the proposed water line of the said reservoir), and that such survey is accurately represented upon this map. (And no lake or lake bed, stream or stream bed, is used for the said (canals, ditches, laterals, and reservoirs) except as shown on this map.)

Sworn and subscribed to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

{SEAL}

Notary Public.

## FORM 2

I, \_\_\_\_\_, do hereby certify that I am President of the \_\_\_\_\_ Company; that \_\_\_\_\_, who subscribed the accompanying affidavit, is the chief engineer of (or was employed to make the survey by) the said company; that the survey of the said (canals, ditches, laterals, and reservoirs), as accurately represented on this map, was made under authority of the company; that the company is duly authorized by its articles of incorporation to construct the said (canals, ditches, laterals, and reservoirs) upon the location shown upon this map; that the said (canals, ditches, laterals, and reservoirs), as represented on this map, was adopted by the company, by resolution of its board of directors, on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, as the definite location of the said (canals, ditches, laterals, and reservoirs) and that no lake or lake bed, stream or stream bed is used for the said (canals, ditches, laterals, and reservoirs) except as shown on this map; and that the map has been prepared to be filed for the approval of the Secretary of the Interior, in order that the company may obtain the benefits of (sections 18 to 21, inclusive, of the acts of Congress approved March 3, 1891, entitled "An act to repeal timber-culture laws, and for other purposes," and section 2 of the act approved May 11, 1898); and I further certify that the right-of-way herein described is desired for the main purpose of irrigation.

{SEAL OF THE COMPANY}

President of the \_\_\_\_\_ Company.

Attest:

Secretary.

[Forms for proof of construction]

## FORM 3

STATE OF \_\_\_\_\_  
County of \_\_\_\_\_, ss:

\_\_\_\_\_, being duly sworn, says that he is the chief engineer of (or was employed to supervise or check the construction of the canals, ditches, laterals, and reservoirs of) the \_\_\_\_\_ Company; that said (canals, ditches, laterals, and reservoirs) have been constructed under his supervision; that construction was commenced on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, and completed on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_; that the constructed (canals, ditches, laterals, and reservoirs) as aforesaid, conform to the map which received the approval of the Secretary of the Interior on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

Sworn and subscribed to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

## FORM 4

I, \_\_\_\_\_, do certify that I am the President of the \_\_\_\_\_ Company; that the (canals, ditches, laterals, and reservoirs) were actually con-

structed as set forth in the accompanying affidavit of \_\_\_\_\_, chief engineer (or the person employed by the company in the premises), and on the exact location represented on the map approved by the Secretary of the Interior on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_; and that the company has in all things complied with the requirements of the act of Congress, (March 3, 1891, granting rights-of-way for canals, ditches, and reservoirs through the public lands of the United States.)

{SEAL OF COMPANY}

President of the \_\_\_\_\_ Company.

Attest:

Secretary.

## Forms for Water Plants Only

Act of February 15, 1901, or February 1, 1905

## FORM 5

STATE OF \_\_\_\_\_  
County of \_\_\_\_\_, ss:

\_\_\_\_\_, being duly sworn, says he is the chief engineer of (or the person employed by) the \_\_\_\_\_ Company, under whose supervision the survey was made of the grounds selected by the company for structures for a water plant under the act of Congress approved February 15, 1901 (or act of February 1, 1905), said grounds (here describe as required by regulation 36); that the accompanying drawing correctly represents the locations of the said structures; and that in his belief the structures represented are actually and to their entire extent required for the necessary uses contemplated by the said act of February 15, 1901 (31 Stat. 790), (or February 1, 1905).

Chief Engineer.

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

{SEAL}

Notary Public.

## FORM 6

I, \_\_\_\_\_, do hereby certify that I am the President of the \_\_\_\_\_ Company; that the survey of the structures represented on the accompanying drawing was made under authority and by direction of the company, and under the supervision of \_\_\_\_\_, its chief engineer (or the person employed in the premises), whose affidavit precedes this certificate; that the survey as represented on the accompanying drawing actually represents the structures required (here describe as required by regulation 36) for water plant, under the act of Congress approved February 15, 1901 (or act of February 1, 1905); and that the company, by resolution of its board of directors, passed on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, directed the proper officers to present the said drawing for the approval of the Secretary of the Interior in order that the company may obtain the use of the grounds required for said structures, under the provisions of said act approved February 15, 1901 (31 Stat. 790), or (February 1, 1905).

{SEAL OF THE COMPANY}

President of the \_\_\_\_\_ Company.

Attest:

Secretary.

## FORM 7

## Reservoir declaratory statement

Under act of January 13, 1897 (29 Stat. 484)

Res. D. S.

Land Office at \_\_\_\_\_

No. \_\_\_\_\_, 19\_\_\_\_.

I, \_\_\_\_\_, of \_\_\_\_\_, do hereby certify that I am President of the \_\_\_\_\_ company, and on behalf of said company, and under its authority, do hereby apply for the reservation of land in \_\_\_\_\_ County, State of \_\_\_\_\_, for the construction and use of a reservoir for furnishing water for livestock under the provisions of the act of January 13, 1897 (29 Stat. 484). The location of said reservoir and of the land necessary for its use, is as follows: \_\_\_\_\_ of section \_\_\_\_\_ in township \_\_\_\_\_ of range \_\_\_\_\_ M., containing \_\_\_\_\_ acres.

I hereby certify that to the best of my knowledge and belief the said land is not occupied or otherwise claimed, is not mineral or otherwise reserved, and that the said reservoir is to be used in connection with the business of the applicant of \_\_\_\_\_

The land owned or claimed by the applicant within the vicinity of the said reservoir (within 3 miles) is as follows:

I further certify that no part of the land to be reserved under this application is or will be fenced; that the same shall be kept open to the free use of any person desiring to water animals of any kind; that the land will not be used for any purpose except the wa-

<sup>1</sup>Where necessary, these forms shall be modified so as to be appropriate to the applicant (corporation, association, or individual), to the act invoked, and to the nature of the project.

tering of stock; and that the land is not, by reason of its proximity to other lands reserved for reservoirs, excluded from reservation by the regulations and rulings of the Land Department.

The water of said reservoir will cover an area of \_\_\_\_\_ acres in \_\_\_\_\_ of section \_\_\_\_\_ in township \_\_\_\_\_, of range \_\_\_\_\_ of said lands; the capacity of the reservoir will be \_\_\_\_\_ gallons, and the dam will be \_\_\_\_\_ feet high. The source of the water for said reservoir is \_\_\_\_\_

and there are no streams or springs within two miles of the land to be reserved except as follows: \_\_\_\_\_

The applicant has filed no other declaratory statements under this act except as follows: \_\_\_\_\_

No. \_\_\_\_\_ land office, area to be reserved \_\_\_\_\_ acres.  
No. \_\_\_\_\_ land office, area to be reserved \_\_\_\_\_ acres.  
No. \_\_\_\_\_ land office, area to be reserved \_\_\_\_\_ acres.  
No. \_\_\_\_\_ land office, area to be reserved \_\_\_\_\_ acres.  
Total, \_\_\_\_\_ acres, of which Nos. \_\_\_\_\_ are located in said county.

And I further certify that it is the *bona fide* purpose and intention of this applicant to construct and complete said reservoir and maintain the same in accordance with the provisions of said act of Congress and such regulations as are or may be prescribed thereunder.

[SEAL OF COMPANY] \_\_\_\_\_

Attest: \_\_\_\_\_

Secretary.

STATE OF \_\_\_\_\_

County of \_\_\_\_\_, ss:

\_\_\_\_\_, being duly sworn, deposes and says that the statements herein made are true to the best of his knowledge and belief.

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, in the year 19\_\_\_\_.

Notary Public.

Land Office at \_\_\_\_\_, 19\_\_\_\_.

I, \_\_\_\_\_, register of the land office, do hereby certify that the foregoing application is for the reservation of lands subject thereto under the provisions of the act of January 13, 1897; that there is no prior valid adverse right to the same; and that the land is not, by reason of its proximity to other lands reserved for reservoirs, excluded from reservation by the regulations and ruling of the Land Department.  
Fees, \$\_\_\_\_\_ paid.

Register.

FORM 8

STATE OF \_\_\_\_\_

County of \_\_\_\_\_, ss:

\_\_\_\_\_, being duly sworn, says that he is the person who was employed to make the survey of a reservoir covering an area of \_\_\_\_\_ acres, the initial point of the survey being \_\_\_\_\_ (here describe as required by regulation 4a), said reservoir having been constructed upon the \_\_\_\_\_ quarter of the \_\_\_\_\_ section \_\_\_\_\_, township \_\_\_\_\_, range \_\_\_\_\_, principal meridian, as proposed by reservoir declaratory statement No. \_\_\_\_\_, which was filed in the local land office at \_\_\_\_\_, under the provisions of the act of January 13, 1897 (29 Stat. 484); that the said survey was made on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_; that the dam and all necessary works have been constructed in a substantial manner; that the reservoir has a capacity of \_\_\_\_\_ gallons, and at the time of said survey contained \_\_\_\_\_ gallons of water.

Sworn and subscribed to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

Notary Public.

FORM 9

I, \_\_\_\_\_, do hereby certify that I am the President of the \_\_\_\_\_ company which filed (or that I am the person who filed) reservoir declaratory statement No. \_\_\_\_\_ in the local land office at \_\_\_\_\_; that the reservoir proposed has been constructed upon the \_\_\_\_\_ quarter of the \_\_\_\_\_ section \_\_\_\_\_, township \_\_\_\_\_, range \_\_\_\_\_, principal meridian, covering an area of \_\_\_\_\_ acres, the initial point of the survey being \_\_\_\_\_ (describe as in Form 8); that the dam and all necessary works have been constructed in a substantial manner in good faith in order that the reservoir may be used and maintained for the purpose, and in the manner prescribed by the said act of January 13, 1897 (29 Stat.

484), the provisions of which have been and will be complied with in all respects.

[SEAL OF COMPANY] \_\_\_\_\_

President of Company.

Attest: \_\_\_\_\_

Secretary.

FORM 10

STATE OF \_\_\_\_\_

County of \_\_\_\_\_, ss:

\_\_\_\_\_, being duly sworn, deposes and says that he is the President of the \_\_\_\_\_ company which filed (or that he is the person who filed) reservoir declaratory statement No. \_\_\_\_\_, in the local land office at \_\_\_\_\_; that the reservoir constructed in pursuance thereof, as heretofore certified, has been kept in repair; that the water has been kept therein to the extent of not less than \_\_\_\_\_ gallons during the entire calendar year of 19\_\_\_\_; that neither the reservoir nor any part of the land reserved for use in connection therewith is or has been fenced during said years; and that the said company has in all things complied with the provisions of the act of January 13, 1897 (29 Stat. 484).

President of \_\_\_\_\_ Company.

Sworn and subscribed to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

[SEAL] \_\_\_\_\_

Notary Public.

[F. R. Doc. 38-1530; Filed, May 31, 1938; 9:51 a. m.]

STOCK DRIVEWAY WITHDRAWAL No. 209, OREGON No. 26,  
REDUCED

MAY 23, 1938.

Departmental order of January 19, 1937, withdrawing certain lands in Oregon for stock driveway purposes under section 10 of the act of December 29, 1916 (39 Stat. 862), as amended by the act of January 29, 1929 (45 Stat. 1144) is hereby revoked in so far as it affects the following-described land:

WILLAMETTE MERIDIAN

T. 11 S., R. 26 E., sec. 34, S $\frac{1}{2}$  of S $\frac{1}{2}$ , 160 acres.

OSCAR L. CHAPMAN,

Assistant Secretary of the Interior.

[F. R. Doc. 38-1529; Filed, May 31, 1938; 9:49 a. m.]

National Bituminous Coal Commission.

[Docket No. 63-FD]

IN THE MATTER OF THE APPLICATION OF THE SUNSHINE ANTHRACITE COAL COMPANY FOR CERTIFICATE OF EXEMPTION FILED PURSUANT TO ORDER No. 28

NOTICE OF CONTINUANCE OF ORAL ARGUMENT ON EXCEPTIONS TO PROPOSED REPORT OF THE COMMISSION

Notice is hereby given that the oral argument on the adoption of the proposed report of the Commission and the exceptions of the Sunshine Anthracite Coal Company thereto, now set for the first day of June, 1938, commencing at the hour of 10 o'clock A. M. before the Commission in the Hearing Room at Washington, D. C., is hereby continued to a time and place to be determined upon five days notice to the applicant, the Sunshine Anthracite Coal Company.

The Secretary of the Commission is forthwith directed to telegraph notice of this continuance, provided for herein, to the Sunshine Anthracite Coal Company, and mail copies of this notice to the Sunshine Anthracite Coal Company, the Consumers' Council, and to the Secretaries of the Bituminous Coal Producers Boards, and shall cause a copy of same to be published in the FEDERAL REGISTER.

By order of the Commission.

Dated this 28th day of May, 1938.

[SEAL]

E. C. FARIS, Jr.,

Acting Secretary.

[F. R. Doc. 38-1531; Filed, May 31, 1938; 10:52 a. m.]

## DEPARTMENT OF COMMERCE.

## Bureau of Marine Inspection and Navigation.

Pursuant to call under authority of Section 4405 of the Revised Statutes by the Honorable Daniel C. Roper, Secretary of Commerce, an Executive Committee meeting of the Board of Supervising Inspectors, Bureau of Marine Inspection and Navigation, consisting of R. S. Field, Director; George Fried, Supervising Inspector, Second District; and Chester Willett, Supervising Inspector, Sixth District; was held in the hearing room of the auditorium, Department of Commerce, Washington, D. C., on May 24, 1938.

The following resolutions were unanimously adopted by the Executive Committee and were approved by the Secretary of Commerce:

[Resolution No. 3454]

## REPORTS OF ACCIDENTS TO VESSELS

*Resolved*, That under authority of Sections 4405 and 4448, R. S., Rule V be and hereby is amended by the deletion of Section 16 of all classes of the General Rules and Regulations and the insertion of the following in its stead:

The licensed officer in command of any vessel shall report in writing and in person to the board of local inspectors nearest the port of first arrival any accident to said vessel involving loss of life or damage to property to an approximate amount exceeding \$500 and shall also report in the same manner any casualty or loss of life from whatever cause of any person on board such vessel and any stranding or grounding, whether or not any damage has been sustained by the vessel: Provided, That when from distance it may be inconvenient to report in person it may be done in writing only, and the report sworn to before any person authorized to administer oaths.

Whenever a vessel commanded by an officer licensed by the Bureau collides with a lightship, buoy, or other aid to navigation under the jurisdiction of the Bureau of Lighthouses, or is connected with any such collision, it shall be the duty of the licensed officer in command of such vessel to report the accident to the nearest local office of the Bureau. When any collision of this character is reported to a local office, that office shall immediately transmit such information to the superintendent of lighthouses of the district in which the collision occurred.

Whenever in an investigation of an accident to a vessel, made by the Bureau, it is stated by the officers of the vessel concerned, or it is developed by the investigation, or it is stated in a report of an accident, that the accident was due to a collision with a light vessel, buoy, or other aid to navigation under the jurisdiction of the Lighthouse Service, or to any fault of any such aid, or to the lack of such aid, the local inspectors investigating the case, or to whom the report was made, shall promptly report to the Commissioner of Lighthouses, through the supervising inspector of the district and the Director, on the form provided for the purpose, the location of the accident; the aid to navigation near or at which the accident occurred; the nature of the accident; the alleged cause of the accident; whether or not the accident was due to some alleged fault of the aid, either in its operation or location; the proposed improvement in the aid, if such has been suggested; and all other information or suggestions coming to them which would be of value to the Lighthouse Service. If an investigation was held, the findings of the board shall also be reported. Local Inspectors shall also report in the same manner any other information or suggestions coming to them concerning the need of additional aids to navigation or the modification of any existing aids.

The Bureau is authorized to call on the superintendent of lighthouses of the district for any information concerning aids to navigation that will be useful in an investigation of an accident.

[Resolution No. 3454-1]

## REPORTS OF ACCIDENTS TO TANK VESSELS

*Resolved*, That under authority of Sections 4405 and 4417 (a), R. S., the General Rules and Regulations, Tank Vessels, be and hereby are amended by the deletion of sub-sections V-2-9 (c) (d) and (e) and the insertion of the following in their stead:

(c) Whenever a tank barge in tow collides with a light ship, buoy, or other aid to navigation under the jurisdiction of the Bureau of Lighthouses, or is connected with any such collision, it shall be the duty of the person in command of the towing vessel to report the accident to the nearest Board of Local Inspectors, and any collision of this character reported to the Local Inspectors shall be immediately transmitted to the Superintendent of Lighthouses of the District in which the collision occurs.

(d) Whenever in an investigation of an accident it develops that such accident was due to a collision with a light vessel, buoy, or other aid to navigation under the jurisdiction of the Lighthouse Service or to any fault of any aid or through the lack of such aid, the Bureau shall promptly notify the Commissioner of Lighthouses on the form provided for the purpose, the location of the accident; the aid to navigation near or at which the accident occurred; the nature of the accident; the alleged cause of the accident; whether or not the accident is due to some alleged fault of the aid, either in its operation or location; the proposed improvement in the aid; and all other information or recommendations developed in the investigation which would be of value to the Lighthouse Service.

Renumber present sub-section (f) to sub-section (e).

[Resolution No. 4310]

## ALTERNATIVE PROCEDURES TO GOVERN NEW DESIGNS OR METHODS OF CONSTRUCTION

*Resolved*, That under the authority of Sections 4405, 4418, 4433 and 4434, R. S., Rules I and II, General Rules and Regulations, as amended by the Fifty-First Supplement, edition of January 1, 1935, be and hereby are amended by the addition of the following section immediately after Section C-1-16, to read as follows:

"C-1-17. *Alternative procedures to govern new designs or methods of construction.*—When new procedures, designs, or methods of construction are submitted for approval, the Bureau is authorized to act regarding the approval or disapproval of such new developments for which no rules have been provided."

[Resolution No. 4311]

## GASKETS

*Resolved*, That under the authority of Sections 4405, 4418, 4433 and 4434, R. S., Rules I and II, General Rules and Regulations, as amended by the Fifty-First Supplement, edition of January 1, 1935, be and hereby are amended by the addition of the following paragraph immediately after paragraph C-6-3 (i), to read as follows:

"C-6-3 (j) The minimum width of bearing surface for a gasket on a manhole opening shall be 11/16 inch. No gasket for use on a manhole or handhole of any boiler shall have a thickness greater than 1/4 inch, when compressed."

[Resolution No. 4312]

## FLUE OPENINGS IN HEADS OF EXTERNALLY FIRED FLUE BOILERS

*Resolved*, That under the authority of Sections 4405, 4418, 4433 and 4434, R. S., Rules I and II, General Rules and Regulations, as amended by the Fifty-First Supplement, edition of January 1, 1935, Section C-6-3 (g) be and hereby is amended by the following:

Delete the words:

"The depth of the flange shall be as hereinafter specified."

Substitute the words:

"*Provided*, That on externally fired flue boilers the inner radius of the flange for the flue openings shall be at least equal to one and one-half times the thickness of the plate."

so that the amended paragraph shall read:

"C-6-3 (g) The inner radius of the bend of the flange of any flanged opening (except manholes or other access opening as specified in C-5-3 (i)) shall not be less than three times the thickness of the flanged plate. *Provided*, that on externally fired flue boilers the inner radius of the flange for the flue openings shall be at least equal to one and one-half times the thickness of the plate."

[Resolution No. 4313]

INSPECTION OF STEAM VESSELS SUBJECT TO THE PROVISIONS OF THE MOTOR BOAT ACT OF JUNE 9, 1910

*Resolved*, That under the authority of Sections 4405, 4418 and the Motor Boat Act of June 9, 1910, R. S., Rules I and II, General Rules and Regulations, as amended by the Fifty-First Supplement, edition of January 1, 1935, be and hereby are amended by the addition of the following section immediately following Section I-18-13:

"I-18-14. *Inspection of Steam Vessels subject to the provisions of the Motor Boat Act of June 9, 1910.*—(a) Such vessels are subject to approval of design of boilers and machinery by the local inspectors and thereafter subject to inspection in accordance with the following instructions:

(b) The maximum allowable working pressure shall be computed by Rule II, Section 2, paragraph C-2-3, Formula No. 1.

(c) The hydrostatic tests shall be applied in accordance with the requirements of Rule II, Section 18, paragraph I-18-4.

(d) In addition to the hydrostatic tests, the boiler shall be examined and tested as provided in the paragraphs I-18-4 (b) to (j), inclusive.

(e) The mountings and attachments shall be examined in accordance with the provisions of Rule II, Section 18, paragraph I-18-5, and the boilers equipped with fusible plugs as specified in this paragraph.

(f) An examination of equipment and conditions outside of the boilers shall be made in accordance with the requirements of Sections I-18-6, I-18-7, and I-18-8, Rule II.

(g) Although certificates of inspection shall not be issued, there shall be, in addition to the letter approving the design, another letter given to the owner at each inspection, either approving the condition of the boiler or citing what requirements are necessary to put it in a safe condition, which letter shall be kept on board.

(h) Where new boilers are installed on vessels of this class, the material, design, and construction shall conform to all the requirements of Rules I and II.

(i) Forms A and B shall be used in the approval of design and annual inspection of boilers, respectively, and shall be given to the owner to be kept on board the vessel where they may be examined upon request."

[Resolution No. 4314]

WELDED SEA CHESTS

*Resolved*, That under the authority of Sections 4405, 4418, 4433 and 4434, R. S., Rules I and II, General Rules and Regulations, as amended by the Fifty-First Supplement, edition of January 1, 1935, be and hereby are amended by the addition of the following section immediately after Section P-19-16, to read as follows:

"P-19-17. *Welded sea chests.*—Sea chests may be constructed by fusion welding, provided the design is first approved by the Bureau and the welding is done by approved

operators who have passed the Bureau's qualification tests, and, provided further, that approved welding rods are used in their construction. This condition also applies to the attachment of sea chests to shells of vessels."

[Resolution No. 4315]

METHOD FOR REPAIRING FURNACE CROWNS

*Resolved*, That under the authority of Sections 4405, 4418, 4433 and 4434, R. S., Rules I and II, General Rules and Regulations, as amended by the Fifty-First Supplement, edition of January 1, 1935, be and hereby are amended by the addition of the following paragraph immediately after paragraph S-21-5 (e), to read as follows:

"S-21-5 (f) *Method for repairing furnace crowns.*—Furnaces which have become distorted, not in excess of the limitations provided in S-21-5 (c), may be repaired by pumping back the distorted section to as nearly a true circle as possible and reinforcing the same by means of a ring fusion welded to the distorted corrugation, as shown in Fig. S-2-A, the welding work to be done by qualified welding operators using approved welding rods or electrodes."

[Resolution No. 4316]

APPROVAL OF WELDING RODS AND ELECTRODES

*Resolved*, That under the authority of Sections 4405, 4418, 4433 and 4434, R. S., Rules I and II, General Rules and Regulations, as amended by the Fifty-First Supplement, edition of January 1, 1935, be and hereby are amended by the addition of the following paragraphs immediately after paragraph W-20-3 (m), to read as follows:

"W-20-3 (n) *Approval of Welding Rods and Electrodes.*—Welding rods or electrodes are required to be approved by the Bureau before they can be used in the fabrication of boilers, pressure vessels and engineering equipment on vessels subject to the jurisdiction of the Bureau.

(o) To obtain approval of welding rods or electrodes manufacturers shall submit to the Bureau, for test at the National Bureau of Standards, specimens of deposited metal made in the presence of an inspector. Scientific data and facts shall also be submitted to show that dependable sound welds can be made with the products on which approval is desired. Instructions for the preparation of test coupons may be obtained upon application to the Bureau."

[Resolution No. 4317]

SEAL AND TACK WELDING

*Resolved*, That under the authority of Sections 4405, 4418, 4433 and 4434, R. S., Rules I and II, General Rules and Regulations, as amended by the Fifty-First Supplement, edition of January 1, 1935, be and hereby are amended by the addition of the following paragraph immediately after Section W-20-12 (q), to read as follows:

"W-20-12 (r) *Seal and Tack Welding.*—Seal welding, i. e., the laying of a single bead of welding on the calking edge of a plate may be permitted, provided the welding rod or electrode has a diameter not exceeding  $\frac{3}{8}$  inch. Tack welding, for the purpose of attaching internal baffles, strainers, or external lugs for securing lagging and similar purposes, will be permitted, provided the welds do not exceed  $\frac{1}{4}$  inch in depth and 2 inches in length and are spaced at least 2 inches apart or made continuous. In both cases, however, it is required that the work be done by qualified welding operators using approved welding rods or electrodes."

[Resolution No. 4318]

SEARCHLIGHTS

*Resolved*, That under authority of Sections 4405, 4412, 4439 and 4442, R. S., the "Rule Relating to the Use of Searchlights" be and hereby is amended by the deletion of the present

rule appearing on page 33 of Pilot Rules for Certain Inland Waters of The Atlantic and Pacific Coasts and of the Coast of The Gulf of Mexico, page 11 of Pilot Rules for The Great Lakes and Their Connecting and Tributary Waters, and page 9 of Pilot Rules for the Rivers Whose Waters Flow Into The Gulf of Mexico and Their Tributaries and the Red River of the North and the insertion of the following in its stead:

Any master or pilot of any vessel who shall flash or cause to be flashed the rays of the searchlight into the pilot house of a passing vessel may be proceeded against in accordance with the provisions of Section 4450, R. S., as amended, looking to a revocation or suspension of his license.

[Resolution No. 4318-1]

#### SEARCHLIGHTS

*Resolved*, That under authority of Sections 4405, 4412, 4439 and 4442, R. S., Rule V be and hereby is amended by the deletion of Section 26, Ocean and Coastwise; Section 25, Great Lakes; Section 26, Bays, Sounds and Lakes other than the Great Lakes; and Section 24, Rivers; and the insertion of the following in its stead:

Any master or pilot of any vessel who shall flash or cause to be flashed the rays of the searchlight into the pilot house of a passing vessel may be proceeded against in accordance with the provisions of Section 4450, R. S., as amended, looking to a revocation or suspension of his license.

[Resolution No. 4318-2]

#### SEARCHLIGHTS

*Resolved*, That under authority of Sections 4405 and 4417 (a), R. S., the General Rules and Regulations, Tank Vessels, be and hereby are amended by the deletion of Section V-2-7 and the insertion of the following in its stead:

V-2-7. *Searchlights.*—T/ALL. Any master of any vessel who shall flash or cause to be flashed the rays of the searchlight into the pilot house of a passing vessel may be proceeded against in accordance with the provisions of Section 4450, R. S., as amended, looking to a revocation or suspension of his license.

[Resolution No. 4319]

#### RULE PROHIBITING UNNECESSARY SOUNDING OF THE WHISTLE

*Resolved*, That under the authority of Sections 4405 and 4412, R. S., the rule appearing on pages 33 and 34 of the Pilot Rules for Certain Inland Waters of The Atlantic and Pacific Coasts and of the Coast of The Gulf of Mexico, page 9 of Pilot Rules for the Rivers Whose Waters Flow Into the Gulf of Mexico and Their Tributaries and the Red River of the North, and page 11 of Pilot Rules for the Great Lakes and Their Connecting and Tributary Waters, entitled "Rule Prohibiting Unnecessary Sounding of the Steam Whistle," be and hereby is deleted and the following is inserted in its stead:

#### RULE PROHIBITING UNNECESSARY SOUNDING OF THE WHISTLE

Unnecessary sounding of the whistle is prohibited within any harbor limits of the United States. Whenever any licensed officer in charge of any vessel shall authorize or permit such unnecessary whistling, such officer may be proceeded against in accordance with the provisions of Section 4450, R. S., as amended, looking to a revocation or suspension of his license.

[Resolution No. 4319-1]

#### WHISTLING

*Resolved*, That under authority of Sections 4405 and 4438, R. S., Rule V be and hereby is amended by the deletion of Section 22, Ocean and Coastwise; Section 26, Great Lakes; Section 24, Bays, Sounds and Lakes other than the Great Lakes; and Section 20, Rivers; and the insertion of the following in its stead:

Unnecessary sounding of vessel's whistle is prohibited within any harbor limits of the United States. Whenever any licensed officer in charge of any vessel shall authorize or permit such unnecessary whistling, such officer may be proceeded against in accordance with the provisions of Section 4450, R. S., as amended, looking to a revocation or suspension of his license.

[Resolution No. 4319-2]

#### WHISTLING

*Resolved*, That under authority of Sections 4405 and 4417 (a), R. S., the General Rules and Regulations, Tank Vessels, be and hereby are amended by the deletion of Section V-2-8 and the insertion of the following in its stead:

V-2-8. *Whistling.*—T/ALL. Unnecessary sounding of vessel's whistle is prohibited within any harbor limits of the United States. Whenever any licensed officer in charge of any tank ship shall authorize or permit such unnecessary whistling, such officer may be proceeded against in accordance with the provisions of Section 4450, R. S., as amended, looking to a revocation or suspension of his license.

[Resolution No. 4320]

#### RULE PROHIBITING THE CARRYING OF UNAUTHORIZED LIGHTS ON VESSELS

*Resolved*, That under authority of Sections 4405 and 4412, R. S., the rule appearing on page 34 of the Pilot Rules for Certain Inland Waters of The Atlantic and Pacific Coast and of The Coast of The Gulf of Mexico, page 9 of Pilot Rules for the Rivers Whose Waters Flow Into the Gulf of Mexico and Their Tributaries and the Red River of the North, and page 11 of Pilot Rules for The Great Lakes and their Connecting and Tributary Waters, entitled "Rule Prohibiting the Carrying of Unauthorized Lights on Vessels," be and hereby is deleted and the following is inserted in its stead:

#### RULE PROHIBITING THE CARRYING OF UNAUTHORIZED LIGHTS ON VESSELS

Any master or pilot of any vessel who shall authorize or permit the carrying of any light, electric or otherwise, not required by law that in any way will interfere with distinguishing the signal lights may be proceeded against in accordance with the provisions of Section 4450, R. S., as amended, looking to a suspension or revocation of his license.

[Resolution No. 4320-1]

#### UNAUTHORIZED LIGHTS

*Resolved*, That under authority of Sections 4405, 4412, 4439 and 4442, R. S., Rule V be and hereby is amended by the deletion of Section 27, Ocean and Coastwise; Section 27, Great Lakes; Section 25, Bays, Sounds and Lakes other than the Great Lakes; and Section 25, River; and the insertion of the following in its stead:

Any master or pilot of any vessel who shall authorize or permit the carrying of any light, electric or otherwise, not required by law that in any way will interfere with distinguishing the signal lights may be proceeded against in accordance with the provisions of Section 4450, R. S., as amended, looking to a revocation or suspension of his license.

[Resolution No. 4320-2]

#### UNAUTHORIZED LIGHTS

*Resolved*, That under authority of Sections 4405 and 4417 (a), R. S., the General Rules and Regulations, Tank Vessels, be and hereby are amended by the deletion of Section V-2-6 and the insertion of the following in its stead:

V-2-6. *Unauthorized Lights.*—T/ALL. Any master or pilot of any vessel who shall authorize or permit the carrying of any light, electric or otherwise, not required by law that in any way will interfere with distinguishing the signal lights



may be proceeded against in accordance with the provisions of Section 4450, R. S., as amended, looking to a revocation or suspension of his license.

[Resolution No. 4321]

#### PARTING WITH LICENSE

*Resolved*, That under authority of Sections 4405 and 4438, R. S., Rule V be and hereby is amended by the deletion of Section 8 of all classes of the General Rules and Regulations and the insertion of the following in its stead:

If the holder of any license granted to a master, mate, engineer, or pilot, voluntarily parts with it or places it beyond his personal control by pledging or depositing it with any other person for any purpose, he may be proceeded against in accordance with the provisions of Section 4450, R. S., as amended, looking to a suspension or revocation of his license.

[Resolution No. 4322]

#### LAW, GENERAL RULES AND REGULATIONS, AND PILOT RULES TO BE FURNISHED LICENSED OFFICERS

*Resolved*, That under authority of Sections 4405 and 4438, R. S., Rule V be and hereby is amended by the deletion of Section 12 of all classes of the General Rules and Regulations and the insertion of the following in its stead:

Every master, mate, pilot, and engineer of vessels shall, when receiving an original license, a renewed license, or a raise of grade of license, be furnished by the inspectors with a copy of the Laws Governing Marine Inspection, and a copy of the General Rules and Regulations Prescribed by the Board of Supervising Inspectors, and every master and pilot of vessels and operator of motor vessels shall, when receiving an original license, a renewed license, or a raise of grade of license, be furnished by the inspectors with a pamphlet copy of the rules and regulations governing pilots and of the statutes upon which such rules are founded, applicable to the waters on which their licenses are intended to be used, as stated in the body thereof.

[Resolution No. 4323]

#### SUSPENSION AND REVOCATION OF LICENSE

*Resolved*, That under authority of Sections 4405 and 4438, R. S., Rule V be and hereby is amended by the deletion of Section 13 of all classes of the General Rules and Regulations and the insertion of the following in its stead:

When the license of any master, mate, engineer, or pilot is revoked such license expires with such revocation and any license subsequently granted to such person shall be considered in the light of an original license except as to number of issue. And upon the revocation or suspension of the license of any such officer said license shall be surrendered to the local inspectors or the supervising inspector who shall forward same to the Director. Such surrender will not obtain in those instances where the officer desires to avail himself of the appeal provisions of Section 4450, R. S., as amended, until a determination of his appeal. No person whose license has been suspended or revoked shall be issued another license except upon approval of the Director.

When the license of any master, mate, engineer or pilot is suspended the Director shall determine the length of its duration, except that such suspension shall not extend beyond the time for which the license was issued. When the Director suspends a license which is about to expire, he may withhold the renewal of such license for such time as he considers necessary.

[Resolution No. 4323-I]

#### SUSPENSION OR REVOCATION OF LICENSE

*Resolved*, That under authority of Sections 4405 and 4417 a), R. S., the General Rules and Regulations, Tank Vessels,

be and hereby are amended by the deletion of Section B-1-17 and the insertion of the following in its stead:

**B-1-17. Suspension or Revocation of License.—T/ALL.** When the license of any master, mate, engineer, or pilot is revoked such license expires with such revocation and any license subsequently granted to such person shall be considered in the light of an original license except as to number of issue. And upon the revocation or suspension of the license of any such officer said license shall be surrendered to the local inspectors or the supervising inspector. Such surrender will not obtain in those instances where the officer desires to avail himself of the appeal provisions of Section 4450, R. S., as amended, until a determination of his appeal. No person whose license has been suspended or revoked shall be issued another license except upon approval of the Director.

When the license of any master, mate, engineer or pilot is suspended the Director shall determine the length of its duration, except that such suspension shall not extend beyond the time for which the license was issued. When the Director suspends a license which is about to expire, he may withhold the renewal of such license for such time as he considers necessary.

[Resolution No. 4324]

#### MISCONDUCT OF LICENSED OFFICERS

*Resolved*, That under authority of Sections 4405 and 4438, R. S., Rule V be and hereby is amended by the deletion of Section 14 of all classes of the General Rules and Regulations and the insertion of the following in its stead:

Whenever a supervising, local, or assistant inspector of steam vessels or any of them shall find on board any vessel subject to the provisions of these regulations any licensed officer under the influence of liquor or other stimulant to such an extent as to unfit him for duty, or when any licensed officer shall use abusive or insulting language to an inspector or assault any such inspector while on official duty, such officer may be proceeded against in accordance with the provisions of Section 4450, R. S., as amended, looking to a revocation or suspension of his license.

[Resolution No. 4324-I]

#### MISCONDUCT OF LICENSED OFFICERS

*Resolved*, That under authority of Sections 4405 and 4417 (a), R. S., the General Rules and Regulations, Tank Vessels, be and hereby are amended by the deletion of Section B-1-18 and the insertion of the following in its stead:

**B-1-18. Misconduct of licensed officers.—T/ALL.** (a) Whenever a supervising, local, or assistant inspector of steam vessels or any of them shall find on board any vessel subject to the provisions of these regulations any licensed officer under the influence of liquor or other stimulant to such an extent as to unfit him for duty, or when any licensed officer shall use abusive or insulting language to an inspector or assault any such inspector while on official duty, such officer may be proceeded against in accordance with the provisions of Section 4450, R. S., as amended, looking to a revocation or suspension of his license.

(b) The fact of a licensed officer being under the influence of liquor in the presence of the inspector or inspectors to such an extent as to unfit him for duty while on board a vessel may be sufficient cause for instituting procedure under Section 4450, R. S., as amended, looking to a suspension or revocation of his license.

[Resolution No. 4325]

#### EXAMINATION OF BOILERS AND MACHINERY

*Resolved*, That under authority of Sections 4405, 4441 and 4448, R. S., Rule V be and hereby is amended by the deletion of Section 59, Ocean and Coastwise; Section 52, Great Lakes; Section 51, Bays, Sounds and Lakes other than the Great

Lakes; and Section 44, Rivers; and the insertion of the following in its stead:

It shall be the duty of an engineer when he assumes charge of the boilers and machinery of a vessel to examine the same forthwith and thoroughly, and if he finds any part thereof in bad condition, he shall immediately report the facts to the master, owner, or agent, and to the local inspectors of the district, who shall thereupon investigate the matter, and if the former engineer has been wilfully negligent in the performance of his duties, he may be proceeded against under the provisions of R. S. 4450 as amended looking to a suspension or revocation of his license.

[Resolution No. 4325-I]

EXAMINATION OF BOILERS AND MACHINERY

*Resolved*, That under authority of Sections 4405 and 4417 (a), R. S., the General Rules and Regulations, Tank Vessels, be and hereby are amended by the deletion of Section V-3-1, and the insertion of the following in its stead:

*V-3-1. Examination of Boilers and Machinery.—T/ALL.* It shall be the duty of an engineer when he assumes charge of the boilers and machinery of a vessel to examine the same forthwith and thoroughly, and if he finds any part thereof in bad condition, he shall immediately report the facts to the master, owner, or agent, and to the local inspectors of the district, who shall thereupon investigate the matter, and if the former engineer has been wilfully negligent in the performance of his duties, he may be proceeded against under the provisions of R. S. 4450 as amended looking to a suspension or revocation of his license.

[Resolution No. 4326]

PARTING WITH LICENSE

*Resolved*, That under authority of Sections 4405 and 4417 (a), R. S., the General Rules and Regulations, Tank Vessels, be and hereby are amended by the deletion of Section B-1-15 and the insertion of the following in its stead:

*B-1-15. Parting with license.—T/ALL.* If the holder of any license granted to a master, mate, engineer, or pilot, voluntarily parts with it or places it beyond his personal control by pledging or depositing it with any other person for any purpose, he may be proceeded against in accordance with the provisions of Section 4450, R. S., as amended, looking to a suspension or revocation of his license.

[Resolution No. 4327]

CERTIFICATED TANKER MEN

*Resolved*, That under authority of Sections 4405 and 4417 (a), R. S., the General Rules and Regulations, Tank Vessels, be and hereby are amended by the deletion of Section B-2-3 (a) and the insertion of the following in its stead:

*B-2-3. Certificated tanker men.—TB/ALL.* (a) Any applicant for a certificate as tanker man, not licensed as Master, Mate, Pilot or Engineer, shall be eligible for examination after he has furnished satisfactory documentary evidence to the local inspectors that he is trained in, and capable, efficiently to perform the necessary operations on tank vessels which relate to the handling of cargo.

[Resolution No. 4328]

CERTIFICATED TANKER MEN

*Resolved*, That under authority of Sections 4405 and 4417 (a), R. S., the General Rules and Regulations, Tank Vessels, be and hereby are amended by the deletion of Section B-2-3 (e) and the insertion of the following in its stead:

Such certificate may be suspended or revoked on the same grounds and in the same manner and with like procedure as is provided in the case of suspension or revocation of license of officers under the provisions of Section 4450 of the Revised Statutes and the rules and regulations issued thereunder.

[Resolution No. 4329]

CERTIFICATED TANKER MEN

*Resolved*, That under authority of Sections 4405 and 4417 (a), R. S., the General Rules and Regulations, Tank Vessels, be and hereby are amended by the deletion of Section B-2-3 (f) and the insertion of the following in its stead:

(f) The certificate as tanker man shall be surrendered to the local inspectors by the holder upon the granting to him of a license.

[Resolution No. 4330]

CONSTRUCTION OF MOTION-PICTURE BOOTHS

*Resolved*, That under authority of Sections 4405 and 4472, R. S., Rule V, all classes of the General Rules and Regulations, be and hereby are amended by the addition of the following new section:

BOOTHS

Apparatus for projecting motion pictures using inflammable (nitrocellulose) film or slow-burning (acetate cellulose) film shall be contained in a fire-resistive booth or inclosure. It shall be not less than 7 feet in height and of horizontal area not less than 30 square feet for each projector. It shall not be located nearer than 10 feet to the principal exits of the room.

(a) *Construction of booth.*—The framework shall be constructed of structural steel angles or T irons not less than 1½ inches by 1½ inches by ¼ inch, spaced not more than 2 feet apart, or 2 inches by ¼ inch, when spaced from 2 feet to 4 feet apart, and shall be suitably braced to withstand lateral strains. It shall be securely anchored to the deck. The top and sides of the booth shall be covered on the inside of the steel frame with a metal sheet not thinner than No. 20 gauge, inside of which is placed asbestos millboard not less than ¼ inch thick, all properly secured to the framework. Transite asbestos boards or asbestos wood may be used without the sheet-metal covering, provided the distance between supports or the ½-inch thickness does not exceed 2 feet; for the ¾-inch thickness, 3 feet; for the 1-inch thickness, 4 feet. The door shall be constructed similar to the booth, and shall be not less than 2 feet wide and 5 feet high, shall be self-closing, fit its frame tightly, and be provided with proper latches. The floor shall be covered with one thickness of ¾-inch asbestos millboard or transite board.

All joints shall be made smoke proof.

(b) *Openings in booth.*—The booth shall be provided with a ventilating inlet on each of the three sides, each to be about 15 inches long and 3 inches high, covered on the outside with wire netting of mesh not greater than ⅛ inch, securely fastened to the wall. In the top of the booth shall be located an air-outlet opening of not less than 100 square inches for each projector connected by a fire-resistive flue to a safe distance above the top deck if the booth is located below deck. The flue shall be securely supported on the framework of the booth. This is designed to provide for an air current through the booth, when operating, of 30 or more cubic feet per minute. If in the given location this is not accomplished, artificial ventilation, as by means of a fan within the booth, shall be introduced.

Two openings shall be provided at the front of the booth, one for the machine and the other for observation by the operator, the maximum area of each opening not to exceed 70 square inches. These openings as well as the air inlets near the bottom of the booth shall be provided with gravity doors made of iron or steel not less than 3/16 inch in thickness, of size to overlap the openings by at least 2 inches, and arranged to slide without binding in properly constructed grooves, the joint between door and wall to be smoke-tight when doors are closed; said doors to be held open normally by the use of a fine combustible cord fastened to a fusible link located above the projector which melts at a temperature of 71° C. (160° F.), the whole being so arranged that the

doors will close automatically upon severing of the cord or the fusing of the link. Provision shall also be made for closing said doors by hand from the outside of the booth.

(c) *General requirements.*—All films on board shall at all times be kept within the operating booths, except as otherwise herein provided. They shall be contained in individual metal boxes, except for the film in the machine and the film immediately before it is placed in or immediately after removal from the machine. Where not over five 5-pound reels are present in the booth they may be placed on incombustible shelves, suitably secured against displacement by the motions of the boat. Where more than 5 reels but not more than 10 reels are present, they shall be kept in closed shelves or cabinets similar in construction to that of the walls of the booth. Where more than ten 5-pound reels are present, they are to be stored in an insulated firm cabinet, the cabinet to be constructed per appended specifications.

All rewinding and repair of film shall be conducted within the projecting booth, unless a place with equal safeguards is provided.

When in use the door of the booth shall be closed and when not in use it shall be locked.

The projecting machine is to be suitably secured against displacement by the motions of the boat. All electric wiring and connections shall conform with accepted standards for the given purpose (National Electric Safety Code or National Electric Code). No smoking, matches, or lights other than properly guarded electric lights shall be permitted within the booth.

#### CABINETS

(a) The size of a cabinet for the temporary storage of films on board shall not exceed 10 cubic feet, and shall not be used for storage at one time of more than forty 5-pound reels. The reels shall be contained within suitable metal containers and be held on racks in such manner as not to be displaced by the motions of the boat.

(b) The cabinet shall be constructed of incombustible materials throughout and shall be tightly enclosed. It may be of sheet iron of not less than No. 18 U. S. gage, stiffened with angle irons, double walled, with not less than 2 inches of space between walls, filled with incombustible insulating material, or equivalent construction. The door shall be constructed equivalent to the walls of the cabinet, shall be self-closing, fit closely, and be kept closed and locked at all times except when films are being removed from or placed in the cabinet. If the cabinet is located within the booth, the door of the cabinet shall open outward through the wall of the booth, with tight joints between the booth wall and the cabinet or door. The cabinet shall otherwise be kept in a hold for the storage of hazardous materials. The cabinet shall be secured to the deck by fastenings attached to the outer angle irons.

#### FIRE EXTINGUISHER REQUIRED

At least one fire extinguisher of a kind approved by the Board of Supervising Inspectors shall be placed near every such booth and be accessible at all times.

[Resolution No. 4408]

#### FIRE-FIGHTING EQUIPMENT ON VESSELS USING OIL AS FUEL

*Resolved,* That under authority of Sections 4405, 4470 and 4472, R. S., and Public 722 (Act of June 20, 1936), Rule IV, Ocean and Coastwise, General Rules and Regulations, be and hereby is amended by deleting Section 15 and inserting in its stead the following:

Steam-propelled vessels burning oil for fuel, and seagoing vessels in excess of 300 gross tons propelled by internal-combustion engines, except such vessels engaged in fishing, oystering, clamming, crabbing, or any other branch of the fishery or kelp or sponge industry, shall be fitted with the fire-fighting equipment of the type and character specified below:

1. In each fire room, a metal receptacle containing not less than 10 cubic feet of sand, sawdust impregnated with soda, or other approved dry materials, and scoop or shaker for distributing same: Provided, However, that vessels of 1,000 gross tons and under using oil as fuel, shall be fitted with a metal receptacle, containing not less than 5 cubic feet of sand, sawdust impregnated with soda, or other approved dry material, and scoop or shaker for distributing same.

2. In each boiler room and in each of the machinery spaces of vessels propelled by steam, in which a part of the fuel-oil installation is situated, two or more approved fire extinguishers of the foam type of not less than 2½ gallons each or two or more approved fire extinguishers of the carbon dioxide (CO<sub>2</sub>) type of not less than 15 pounds each shall be placed where accessible and ready for immediate use; Provided, That on vessels of 1,000 gross tons and under only one of the above-described extinguishers may be required.

3. (a) The fire hose lines in boiler and machinery spaces of existing cargo vessels of 3,000 gross tons and over, and existing passenger vessels exceeding 500 gross tons, shall be equipped with not less than two approved spray nozzles attached to sufficient length of hose so that, in each case, any part of the boiler or engine room space may be reached. This equipment shall be kept in efficient condition and ready for immediate use at all times; Provided, That on existing cargo vessels at least one such spray nozzle hydrant shall be permanently installed in the engine or boiler room space. The other spray nozzle and adapter may be used in connection with the regular fire hose and fire line equipment from the deck, provided that sufficient hose is available to reach any part of the boiler or engine room space; Provided further, That on cargo and passenger vessels propelled by electric motors, spray nozzles are not required in the main motor room or in the machinery space when the major portion of auxiliaries are electrically driven. Spray nozzles are not required in the machinery space on cargo and passenger vessels propelled by internal combustion engines when a major portion of the auxiliaries are electrically driven.

(b) In boiler and machinery spaces of new cargo and new passenger vessels of 1600 gross tons and over, there shall be fitted in each such compartment not less than two spray nozzle hydrants to which shall be attached sufficient length of hose so that any part of the boiler or machinery space may be reached. An approved spray nozzle shall be attached to each hose line.

4. (a) On all steam propelled vessels having one boiler room there shall be provided one fire extinguisher of the foam type of at least 40 gallons rated capacity or one carbon dioxide (CO<sub>2</sub>) extinguisher of at least 100 pounds. If the vessel has more than one boiler room, an extinguisher of the above type shall be provided in each boiler room.

(b) On all steam propelled vessels of 1,000 gross tons and under, foam type fire extinguishers of at least 20 gallons rated capacity or carbon dioxide (CO<sub>2</sub>) extinguishers of at least 50 pounds may be used in lieu of the capacities required in (a) above.

(c) Extinguishers fitted in compliance with (a) and (b) above shall be equipped with suitable hose and nozzles on reels or other practicable means easy of access, and of sufficient length to reach any part of the boiler room and spaces containing oil-fuel pumping units.

5. (a) Steam propelled passenger vessels burning oil for fuel shall be fitted with an approved fixed carbon dioxide or foam type system for extinguishing fire in the bilges of each fire room. If engine and boiler rooms are not entirely separate, or if fuel oil can drain from the boiler room bilge into the engine room, the combined engine and boiler rooms shall be considered one compartment. The system shall be capable of being operated from a convenient and accessible point outside of space protected.

(b) Passenger vessels propelled by internal combustion engines shall be fitted with an approved fixed carbon dioxide

system, for extinguishing fire in the machinery space. The system shall be capable of being operated from a convenient and accessible point outside of space protected.

6. All vessels propelled by internal-combustion engines shall be equipped with the following foam type or carbon dioxide fire extinguishers in the machinery spaces:

(a) One approved 12-gallon foam type extinguisher or one approved 35-pound carbon dioxide extinguisher.

(b) One approved 2½-gallon foam type, or one approved 15-pound carbon dioxide extinguisher for each 1,000 BHP of the main engines, or fraction thereof.

(c) The total number of 2½-gallon foam type or 15-pound carbon dioxide extinguishers carried in compliance with (b) above, shall not be less than two, and need not exceed six.

(d) When a donkey boiler fitted to burn oil as fuel is located in the machinery space, there shall be substituted for the 12-gallon foam or 35-pound carbon dioxide unit required by (a) above, one approved 40-gallon foam or one approved 100-pound carbon dioxide unit.

7. (a) On all passenger vessels there shall be provided in the machinery spaces, which contain electric propelling motors and generators of the open type, at least one 15-pound carbon dioxide extinguisher for each such electric propelling motor and generator unit.

(b) On all passenger vessels, small compartments containing auxiliary internal combustion engines, such as emergency generators, etc., shall, in addition to any other extinguishers required, be provided with one approved 15-pound carbon dioxide or 2½-gallon foam extinguisher for each such compartment. This extinguisher shall be located outside of and adjacent to the entrance of the compartment.

8. *Carbon dioxide system requirements.*—(a) When a carbon dioxide (CO<sub>2</sub>) smothering system is fitted in the boiler room, the quantity of carbon dioxide carried shall be sufficient to give a gas saturation of 25 percent of the gross volume of the largest boiler room from tank top to top of the boilers. Top of the boilers is to be considered as the top of the shell of a Scotch or leg type of boiler, and the top of the casing or drum, whichever is the higher, on water-tube boilers. The quantity of carbon dioxide required may be determined approximately by the following formula:

$$W = \frac{L \times B \times D}{36}$$

Where  $W$  = the weight of CO<sub>2</sub> required in pounds.

$L$  = the length of the boiler room in feet.

$B$  = the breadth of the boiler room in feet.

$D$  = the distance in feet from tank top or flat forming lower boundary to top of boilers.

(b) When a carbon dioxide (CO<sub>2</sub>) smothering system is fitted in the machinery space of vessels propelled by internal combustion engines, the quantity of carbon dioxide required may be determined approximately by the following formula:

$$W = \frac{L \times B \times D}{22}$$

Where  $W$  = the weight of CO<sub>2</sub> required in pounds.

$L$  = the length of machinery space in feet.

$B$  = breadth of the machinery space in feet.

$D$  = distance in feet from tank top or flat forming lower boundary to the underside of deck forming the hatch opening.

(c) The whole charge of gas shall be capable of being released simultaneously by operating one valve and control. All cylinders shall be completely discharged in not more than two minutes. The arrangement of the piping shall be such as to give a general and fairly uniform distribution over the entire area protected. An alarm which shall operate automatically with the operation of the system shall be provided to give a warning in the space when the carbon dioxide is about to be released. Provision shall be made to prevent

the admission of air into the lower parts of the boiler or engine room while the system is in operation.

9. *Foam smothering system requirements.*—(a) When a foam type system is fitted, its capacity shall be such as to rapidly discharge over the entire area of the bilge (tank top) of the largest boiler room a volume of foam six inches deep. The arrangement of piping shall be such as to give a uniform distribution over the entire area protected. The system shall be completely discharged in not more than three minutes.

(b) The foregoing system may be of a type employing either two-solution tanks or one or more generators using an approved dry chemical mixture. All containers and valves by which they are operated shall be easily accessible and so placed that they will not readily be cut off from use by an outbreak of fire.

[Resolution No. 1511-93]

#### APPROVAL OF MISCELLANEOUS ITEMS OF EQUIPMENT

*Resolved*, That under authority of Sections 4405 and 4491, R. S., the following equipment be and hereby is approved for use on vessels subject to inspection:

#### FIRE EXTINGUISHERS

3900. Alfite Model 15-D, Series 7-D, carbon dioxide 15 pound fire extinguisher, manufactured by the American-La France and Foamite Industries, Inc., of Elmira, New York.

4128. The "Valmar" 3½-gallon carbon tetrachloride fire extinguisher, manufactured by the American-La France and Foamite Industries, Inc., of Elmira, New York, is approved for restricted use on tank vessels.

4128. The "F-R-X" 3½-gallon carbon tetrachloride fire extinguisher, manufactured by the American-La France and Foamite Industries, Inc., of Elmira, New York, is approved for restricted use on all tank vessels.

4039. Phister 3½-gallon carbon tetrachloride fire extinguisher, manufactured by the Phister Manufacturing Company, of Cincinnati, Ohio, is hereby approved for restricted use on all tank vessels.

#### SPRAY NOZZLES

4242. Sculler 1½-inch fixed type spray nozzle, manufactured by the Sculler Safety Corporation, 539 Broadway, New York, New York.

4109. Mystery 1½-inch fixed type spray nozzle, manufactured by the Elkhart Brass Manufacturing Company, of Elkhart, Indiana.

#### LIFE PRESERVERS

3226-III. Child's Kapok Sea-Lite life preserver, manufactured by the American Pad and Textile Company, of Greenfield, Ohio.

3845. Children's and Adult's Kapok Life Preserver, manufactured by the Elvin Salow Company, of Boston, Massachusetts.

#### BREATHING APPARATUS

3030. American-La France and Foamite Industries, Inc., fresh air hose mask, manufactured by the Mine Safety Appliances Company, of Pittsburgh, Pennsylvania.

[SEAL]

R. S. FIELD, Director.

GEORGE FRIED,

Supervising Inspector, Second District.

CHESTER W. WILLETT,

Supervising Inspector, Sixth District.

Approved, May 28, 1938.

DANIEL C. ROPER,

Secretary of Commerce.

[F. R. Doc. 38-1526; Filed, May 28, 1938; 12:18 p. m.]

## FEDERAL POWER COMMISSION.

Commissioners: Clyde L. Seavey, Acting Chairman;  
Claude L. Draper, Basil Manly, John W. Scott.

[Docket No. IT-5512]

IN THE MATTER OF THE CITY OF LOS ANGELES, A MUNICIPAL CORPORATION, AND DEPARTMENT OF WATER AND POWER OF THE CITY OF LOS ANGELES, COMPLAINANTS VS. THE NEVADA-CALIFORNIA ELECTRIC CORPORATION, A CORPORATION, DEFENDANT

ORDER FIXING DATE OF HEARING

MAY 27, 1938.

It appearing to the Commission that:

(a) The City of Los Angeles, a municipal corporation, and the Department of Water and Power of the City of Los Angeles, by complaint filed on March 14, 1938, alleged that certain rates and charges specified in a contract in force and effect with The Nevada-California Electric Corporation were and are unjust and unreasonable and in violation of Section 205 (a) of the Federal Power Act;

(b) The Defendant, The Nevada-California Electric Corporation, on April 14, 1938, filed its answer to the complaint of The City of Los Angeles and the Department of Water and Power of the City of Los Angeles denying that the rates and charges specified in the contract in force and effect between the parties were unreasonable or otherwise unlawful and asked that complaint be dismissed.

Th Commission orders that:

A hearing upon the issues presented by the complaint and answer in this cause be held on June 22, 1938, at 10 a. m., in the hearing room of the Commission, Hurley-Wright Building, 1800 Pennsylvania Avenue, N. W., Washington, D. C.

By the Commission.

[SEAL]

LEON M. FUQUAY, Secretary.

[F. R. Doc. 38-1525; Filed, May 28, 1938; 9:42 a. m.]

## FEDERAL TRADE COMMISSION.

*United States of America—Before Federal Trade Commission*

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 27th day of May, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman, Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3345]

IN THE MATTER OF LINCOLN LOCKER CORPORATION

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41)

*It is ordered*, That Edward J. Hornibrook, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

*It is further ordered*, That the taking of testimony in this proceeding begin on Monday, June 20, 1938, at ten o'clock in the forenoon of that day (central standard time), room 416 United States Court House, Des Moines, Iowa.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL]

OTIS B. JOHNSON, Secretary.

[F. R. Doc. 38-1527; Filed, May 28, 1938; 12:38 p. m.]

## RURAL ELECTRIFICATION ADMINISTRATION.

ADMINISTRATIVE ORDER No. 251

MAY 27, 1938.

I hereby amend Administrative Order No. 182 by making it read \$140,000 to be used for line construction on Michigan 8040A1 Allegan, and \$25,000 to be used for the construction of a generating plant. This plant will be designated as Michigan 8040G1 Allegan.

JOHN M. CARMODY, Administrator.

[F. R. Doc. 38-1623; Filed, May 31, 1938; 9:49 a. m.]

## SECURITIES AND EXCHANGE COMMISSION.

*United States of America—Before the Securities and Exchange Commission*

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 26th day of May 1938.

[File No. 32-86]

IN THE MATTER OF CENTRAL MAINE POWER COMPANY

[Public Utility Holding Company Act of 1935, Section 6 (b)]

ORDER PURSUANT TO SECTION 6 (B) EXEMPTING ISSUE AND SALE OF BONDS AND COMMON STOCK FROM PROVISIONS OF SECTION 6 (A)

Central Maine Power Company, a subsidiary of New England Public Service Company, a registered holding company, having duly filed an application with this Commission pursuant to Section 6 (b) of the Public Utility Holding Company Act of 1935 for exemption from the provisions of Section 6 (a) of the Act, regarding the issue and sale by applicant of—

(a) First and General Mortgage Bonds, Series G, 4%, dated October 1, 1935, and maturing October 1, 1960, in the principal amount of \$1,000,000 to The Travelers Insurance Company at private sale at the price of 100% of the principal amount thereof plus accrued interest to the date of delivery; and

(b) 5,000 shares of common stock, no par value, at the price of \$100 per share, such shares to be first offered to the holders of applicant's common stock and 6% preferred stock under the preemptive right of such holders at said price on a pro rata basis; the proceeds of such sales, together with all such common stock not subscribed for and paid for by such holders, to be delivered to New England Public Service Company.

A hearing on such matter having been held after appropriate notice; the record in this matter having been examined, and the Commission having made and filed its findings herein;

*It is ordered*, That the issue and sale of the aforesaid securities in accordance with the terms and conditions set forth in, and for the purposes represented by said application, be and the same hereby are exempted from the provisions of Section 6 (a) of the Public Utility Holding Company Act of 1935; upon condition, however, that if the express authorization of the issue and sale of said securities by the Public Utility Commission of the State of Maine shall be revoked, or shall otherwise terminate, this exemption shall immediately terminate without further order of this Commission; and upon the further condition that within ten days after the issue and sale of said securities the applicant shall file with this Commission a certificate of notification showing that the issue and sale of the securities have been effected in accordance with the terms and conditions and for the purposes represented by said application.

By the Commission.

[SEAL]

FRANCIS P. BRASSOR, Secretary.

[F. R. Doc. 38-1533; Filed, May 31, 1938; 12:39 p. m.]



*United States of America—Before the Securities  
and Exchange Commission*

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 28th day of May, A. D. 1938.

[File No. 32-37]

**IN THE MATTER OF PUBLIC SERVICE COMPANY OF NEW  
HAMPSHIRE**

[Public Utility Holding Company Act of 1935, Section 6 (b)]

ORDER PURSUANT TO SECTION 6 (B) EXEMPTING ISSUE AND SALE OF BONDS AND COMMON STOCK FROM PROVISIONS OF SECTION 6 (A)

Public Service Company of New Hampshire, a subsidiary of New England Public Service Company, a registered holding company, having duly filed an application with this Commission pursuant to Section 6 (b) of the Public Utility Holding Company Act of 1935 for exemption from the provisions of Section 6 (a) of the Act, regarding the issue and sale by applicant of—

(a) First Mortgage 3¾% Bonds, Series C, dated August 1, 1935, and maturing August 1, 1960, in the principal amount of \$750,000, to The Northwestern Mutual Life Insurance Company at private sale at the price of 103% of the principal amount thereof plus accrued interest from February 1, 1938 to the date of delivery; and

(b) 4,000 shares of common stock, without par or face value, to New England Public Service Company at the price of \$50 per share.

A hearing on such matter having been held after appropriate notice; the record in this matter having been examined, and the Commission having made and filed its findings herein;

It is ordered, That the issue and sale of the aforesaid securities in accordance with the terms and conditions set forth in, and for the purposes represented by said application, be and the same hereby are exempted from the provisions of Section 6 (a) of the Public Utility Holding Company Act of 1935; upon condition, however, that if the express authorization of the issue and sale of said securities by the Public Service Commission of the State of New Hampshire or the express authorization of the issue and sale of said securities by the Public Service Commission of the State of Vermont shall be revoked, or shall otherwise terminate, this exemption shall immediately terminate without further order of this Commission; and upon the further condition that within ten days after the issue and sale of said securities the applicant shall file with this Commission a certificate of notification showing that the issue and sale of the securities have been effected in accordance with the terms and conditions and for the purposes represented by said application.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-1534; Filed, May 31, 1938; 12:39 p. m.]

**VETERANS' ADMINISTRATION**

**REVISION OF REGULATIONS**

**DEATH BENEFITS, SURVIVORS OF VETERANS OF THE WORLD WAR**

*Definitions of Relationship*

World War.

R-2514. (A) For the purposes of adjudicating claims for death compensation pending on May 13, 1938, filed prior to that date, the following definition of the term "widow" under the laws in effect on May 12, 1938, shall be for application.

(1) *Widow.*—The term "widow" of a World War veteran except as to claims filed under Section 1 of Public No. 304,

75th Congress, (Act of August 16, 1937) prior to May 13, 1938, (see R. & P. R-2514 (A) (2)), shall mean a woman:

(a) Who was married prior to July 3, 1931 to the person who served; or

(b) Who was married at any time to the person who served provided a child was born of such marriage; provided that as to (a) and (b) hereof the widow

(c) Must have lived continuously with the person who served from the date of marriage to the date of death, except where there was a separation which was due to the misconduct of or procured by the person who served, without the fault of the widow, and

(d) Must not have remarried since the death of the person who served.

(2) For the purposes of Section 1 of Public No. 304, 75th Congress, (Act of August 16, 1937), the term "widow" of a World War veteran shall mean a woman:

(a) Who was married at any time to the person who served provided a child was born of their marriage and proof of birth of such child is established as provided in R. & P. R-1046 and R-2034, and

(b) Who lived continuously with the person who served from the date of marriage to the date of death, except where there was a separation which was due to the misconduct of or procured by the person who served, without the fault of the widow, and

(c) Who has not remarried since the death of the person who served.

(B) For the purpose of adjudicating claims for death compensation filed on or after May 13, 1938, under any law granting such benefits to dependents of deceased World War veterans, the following definitions of relationship shall govern.

(1) *Widow.*—The term "widow" of a World War veteran shall mean a woman:

(a) Who was married prior to May 13, 1938, to the person who served; provided that the widow

(b) Must have lived continuously with the person who served from the date of marriage to the date of death, except where there was a separation which was due to the misconduct of or procured by the person who served, without the fault of the widow, and

(c) Must not have remarried since the death of the person who served.

(C) *Child.*

(1) For the purposes of Public No. 2, 73d Congress (Act of March 20, 1933), the term "child" shall mean the same as under R. & P. R-2508 (B).

(2) For the purposes of Section 28, Title III, Public No. 141, 73d Congress (Act of March 28, 1934), Public No. 484, 73d Congress (Act of June 28, 1934), as amended by Public No. 844, 74th Congress (Act of June 29, 1936), Public No. 304, 75th Congress (Act of August 16, 1937) and Public No. 514, 75th Congress (Act of May 13, 1938), the term "child" shall mean a person unmarried and under the age of eighteen years, unless prior to reaching the age of eighteen the child becomes or has become permanently incapable of self-support by reason of mental or physical defect, who is a legitimate child, a child legally adopted, a stepchild if a member of the man's household, an illegitimate child, but as to the father, only if acknowledged in writing, signed by him or if he has been judicially ordered or decreed to contribute to such child's support, or has been prior to date of death of the veteran, judicially decreed to be the putative father of such child, provided, that the payment of compensation shall be continued after the age of eighteen years and until completion of education or training (but not after such child reaches the age of twenty-one years), to any child who is or may hereafter be pursuing a course of instruction at a school, college, academy, seminary, technical institute, or university particularly designated by him and approved by the Administrator, which shall have agreed to report to the Administrator the termination of attendance of such child, and if any such institution of learning fails to make such report promptly the approval shall

be withdrawn. (Section 3, World War Veterans Act, 1924, as amended, and Section (3) (c) Public No. 484, 73d Congress) (May 13, 1938.)

(D) Mother-Father.

(1) For the purposes of Public No. 2, 73d Congress (Act of March 20, 1933) the term "mother" or "father" shall mean the same as under R. & P. R-2508 (C).

(2) For the purposes of Section 28, Title III, Public No. 141, 73d Congress (Act of March 28, 1934) and Public No. 304, 75th Congress (Act of August 16, 1937), the terms "mother" and "father" shall include stepmothers and step-fathers, mothers and fathers through adoption, and persons who have stood in loco parentis to a member of the military or naval forces at any time prior to his enlistment or induction for a period of not less than one year. (Section 3 (5), World War Veterans Act, 1924, as amended.) (August 16, 1937.)

DEATH OF WORLD WAR VETERAN WHILE RECEIVING OR ENTITLED TO RECEIVE COMPENSATION, PENSION OR RETIREMENT PAY FOR DISABILITY OF 10 PER CENTUM OR MORE, 20 PER CENTUM OR MORE OR 30 PER CENTUM OR MORE

R-2548. For the purposes of Public No. 484, 73d Congress, (Act of June 28, 1934) as amended, the widow, as defined in R. & P. R-2514, (A) (1), or 2514 (B) whichever is applicable, and child or children of a person who served with the United States military or naval forces in the World War before November 12, 1918, or before April 2, 1920, if service was in Russia, and who dies or has died of a disability not due to service while receiving or entitled to receive at the time of death, compensation, pension, or retirement pay for a disability of 30 per centum or more directly or presumptively incurred in or aggravated by service after April 5, 1917, and before July 2, 1921, shall be entitled to receive compensation at the monthly rates specified in R. & P. R-2640; provided that in conformity with Section 1 of Public No. 304, 75th Congress (Act of August 16, 1937), if the person who served was receiving or entitled to receive at the time of death, compensation, pension or retirement pay for a disability of 20 per centum or more and less than 30 per centum directly or presumptively incurred in or aggravated by service as above provided, and claim was filed prior to May 13, 1938, the widow as defined in R. & P. R-2514 (A) (2), or if there be no widow, the child or children shall be entitled to receive compensation at the monthly rates specified in R. & P. R-2640; provided further, that in conformity with section 1 of Public No. 514, 75th Congress (Act of May 13, 1938), if the person who served was receiving or entitled to receive at the time of death, compensation, pension or retirement pay for a disability of 10 per centum or more directly or presumptively incurred in or aggravated by service as above provided, the widow as defined in R. & P. R-2514 (B), or if there be no widow, the child or children shall be entitled to receive compensation at the monthly rates specified in R. & P. R-2640.

(A) *Establishment of service-connected disability of 10 per centum or more, 20 per centum or more and of 30 per centum or more.*—On and after May 13, 1938, the existence of the directly or presumptively service-connected disease or injury at death and the determination of a 10 per centum or 30 per centum disability or more resulting from such disease or injury may be based upon evidence filed subsequent to death and proof of the required percentage of disability at death and evidence as to service connection may be filed at any time on or after May 13, 1938, or the date of death; subject to the limitations contained in Veterans Regulation No. 2 (a), Part II, Paragraph II, and Veterans Regulation No. 2 (d), Paragraph 1, I (a) and (3), provided that in any case in which a claim was filed on or after March 20, 1933, and prior to May 13, 1938, in which entitlement is predicated on provisions of sections 1 and 2 of Public No. 304, 75th Congress, a 20 per centum service-connected disability must have been established prior to May 13, 1938; provided further that a disease or injury or an aggravation thereof will be considered as having been established to the satisfaction of

the Veterans Administration where the evidence of record in the Veterans Administration, or in the War or Navy Departments, shows the existence of such disease or injury as having been directly or presumptively incurred in or aggravated by service. Any disability that may be properly directly service connected under the provisions of Public No. 2, 73rd Congress, or Section 28, Public No. 141, 73d Congress, or under the law in effect at the time of death will be considered directly service connected for the purpose of Public No. 484, 73d Congress, as amended, and any disability that may be properly presumptively service-connected under the provisions of Sections 26, 27 and 28 of Public No. 141, 73d Congress, or under the law in effect at the time of death will be considered presumptively service connected for the purpose of Public No. 844, 74th Congress, as amended. An existing rating of the required percentage of disability shall not include ratings of temporary total granted solely by reason of hospitalization or treatment.

(B) *Evaluation of degree of disability previously established assumed to be correct.*—In the case of any deceased person who served in the World War in which an existing rating of the required degree has been established by a proper rating agency based on a directly or presumptively service connected disease or injury, as defined in subparagraph (A) above, such rating will be assumed to be correct except for fraud, clear or unmistakable error as to conclusions of fact or law; or misrepresentation of a material fact, regardless of the particular rating schedule under which evaluated, and will be accepted as having established service connection and degree of disability sufficient to constitute title to compensation in the widow, child or children of the deceased, in accordance with the provisions of Public No. 484, 73d Congress. (Act of June 28, 1934) as amended.

(C) *Rating schedules to be used in evaluation of disability.*—In any case where the service connected disability of a deceased person who served in the World War was not rated at the time of death in the degree required to confer entitlement under Public No. 484, 73d Congress (Act of June 28, 1934) as amended, and proof of the required degree of disability is filed subsequent to the date of death, the degree of disability will be evaluated in accordance with the schedule of disability ratings in effect at the time of death, or the Schedule of Disability Ratings, 1925, and extensions thereto, or the Schedule for Rating Disabilities, 1933, second edition, whichever provides the higher rating for the disease or injury evaluated. In such cases, the burden of proof shall be upon the claimant to show that the required degree of disability existed at the date of death. (May 13, 1938.)

(G) *Misconduct.*—Death resulting from misconduct of the person who served is a ground for denial of compensation under the provisions of Public No. 484, 73d Congress, but not under Public No. 844, 74th Congress and Public Nos. 304 and 514, 75th Congress. (See R. & P. R-2576 (B)). (May 13, 1938.)

COMMENCEMENT OF ORIGINAL AWARDS OF DEATH PENSION OR COMPENSATION

*Public No. 2 and Sections 28 and 31, Title III, Public No. 141, 73d Congress, Section 3, Public No. 304, and Section 3, Public No. 514, 75th Congress.*

R-2574. Original awards of death pension or compensation under Public No. 2, 73d Congress, (Act of March 20, 1933) Sections 28 and 31, Title III, Public No. 141, 73d Congress, (Act of March 28, 1934) Section 3, Public No. 304, and Section 3, Public No. 514, 75th Congress (Acts of August 16, 1937 and May 13, 1938) shall commence as follows:

(A) (1) For the purposes of Public No. 2, 73d Congress, and Sections 28 and 31, Title III, Public No. 141, 73d Congress, the effective date of an award of death pension or compensation shall be fixed in accordance with the facts found, except that no award of death pension or compensation shall be effective prior to the date of the veteran's death, date of

the happening of the contingency upon which death pension or compensation is allowed, or the date of receipt of application therefor, whichever is the later date; provided that in World War cases, if application is filed on or after August 16, 1937, and within one year from the date of death, the effective date shall be August 16, 1937, or the day following the date of death, whichever is the later, except that the increased rates of death compensation authorized solely under Public No. 304, 75th Congress, shall not be awarded from a date earlier than September 1, 1937, provided further that if entitlement is predicated wholly or in part upon Section 3 of the Act of May 13, 1938, and application is filed on or after May 13, 1938; and within one year from the date of death, the effective date shall be May 13, 1938; or the day following the date of death whichever is the later, but if application is not filed within one year from the date of death, the effective date shall be the date of filing application, but in no event prior to May 13, 1938 (See R. & P. R-2576.)

(2) For the purposes of Sections 4 and 5 of Public No. 304, 75th Congress (Act of August 16, 1937) any claim filed subsequent to March 19, 1933, and prior to August 16, 1937, under any law granting pension or compensation to dependents of World War veterans disallowed or abandoned prior to August 16, 1937, may upon written notice from the claimant or his representative to the Veterans' Administration be revived at any time prior to August 16, 1938, and when title is otherwise established, payments under Public No. 304, 75th Congress (Act of August 16, 1937) shall commence August 16, 1937, provided that any claim filed subsequent to March 19, 1933, and prior to August 16, 1937, in which the claimant or his representative has not been notified of the disallowance thereof or if a claim was pending on August 16, 1937, it shall be considered an application under Public No. 304, 75th Congress, without the written notice required herein and if allowable only under that Act payments shall commence August 16, 1937, except that the increased rates of death compensation authorized solely under Section 3 of Public No. 304, 75th Congress, shall not be awarded from a date earlier than September 1, 1937. (See also R. & P. R-2582 (E)).

(3) For the purposes of Section 3 of Public No. 514, 75th Congress (Act of May 13, 1938), any claim filed subsequent to March 19, 1933, and prior to May 13, 1938, under any law granting pension or compensation to widows of World War veterans, disallowed or abandoned prior to May 13, 1938, may, upon written notice from the claimant or her representative to the Veterans' Administration, be revived at any time prior to May 13, 1939, and when entitlement is otherwise established, payments under Public No. 514, 75th Congress (Act of May 13, 1938), shall commence May 13, 1938; provided that any claim filed subsequent to March 19, 1933, and prior to May 13, 1938, in which the widow or her representative has not been notified of the disallowance thereof, or if a claim was pending on May 12, 1938, either of such claims shall be considered an application under Public No. 514, 75th Congress, without the written notice required herein, and if allowable only under the latter act, payments shall commence May 13, 1938 (May 13, 1938.)

*Public No. 484, 73d Congress, as Amended by Public No. 844, 74th Congress and Public No. 304 and 514, 75th Congress*

R-2576. Original awards of death compensation under Public No. 484, 73d Congress (Act of June 28, 1934) as amended, shall commence:

(A) If the person who served died from a disease or injury not service connected and not the result of his own misconduct, as defined in Veterans Regulation No. 10, Paragraph IX, while receiving or entitled to receive compensation, pension, or retirement pay for a 30 per centum disability or more directly connected with service:

(1) On June 28, 1934, in those cases in which death of the person who served occurred prior to June 28, 1934:

(2) The date of filing application in those cases wherein death of the person who served occurred on or subsequent

to June 28, 1934, except if application is filed on or after August 16, 1937 and within one year from date of death, August 16, 1937 or the day following the date of death, whichever is the later.

(B) If the person who served died under the conditions set forth in subparagraph (A) hereof, except that his death was the result of his own misconduct; or, whether or not the result of misconduct, if death occurred while he was receiving or entitled to receive compensation, pension, or retirement pay for a disability of 30 per centum or more *presumptively* connected with service or under a combined service-connected disability rating of 30 per centum or more when the directly service-connected disability was less than 30 per centum disabling:

(1) The date of filing application or June 29, 1936, whichever is the later, except if application is filed on or after August 16, 1937, and within one year from date of death, August 16, 1937, or the day following the date of death, whichever is the later;

(2) Any claim filed subsequent to March 19, 1933, and prior to June 29, 1936, under Public No. 2, Public No. 141, or Public No. 484, 73d Congress (Acts of March 20, 1933, March 28, 1934, and June 28, 1934) disallowed under Public No. 484, 73d Congress, or abandoned prior to June 29, 1936, under such laws may, upon written notice from the claimant or his representative to the Veterans' Administration, be revived at any time prior to June 30, 1937, and when title is otherwise established payments under Public No. 844, 74th Congress (Act of June 29, 1936) shall commence on the date of its enactment; provided that in any claim adjudicated under Public No. 484, 73d Congress in which the claimant or his representative has not been notified of the disallowance thereof, or if a claim under Public No. 2, Public No. 141, or Public No. 484, 73d Congress was pending on June 29, 1936, it shall be considered an application under Public No. 844, 74th Congress without the written notice required herein and, if allowed, payments thereunder shall commence June 29, 1936.

(C) For the purposes of subparagraphs (A) and (B) hereof, if marriage occurred subsequent to July 2, 1931, and prior to May 13, 1938, the date of commencement shall be the date following the date of death or May 13, 1938, whichever is the later, if application is filed within one year from date of death; otherwise from date of filing application, but in no event prior to May 13, 1938.

(D) If the person who served died while receiving or entitled to receive compensation, pension, or retirement pay for a 20 per centum or more but less than 30 per centum disability directly or presumptively connected with service and, in the case of a widow claimant, a child was born of the marriage to the person who served:

(1) August 16, 1937, or the day following the date of death, whichever is the later, if application is filed within one year from the date of death; (see subparagraph (D) (4) hereof)

(2) The date of filing application, if application is *not* filed within one year from the date of death; (see subparagraph (D) (4) hereof)

(3) Any claim filed subsequent to March 19, 1933 and prior to August 16, 1937 under any law granting pension or compensation to a widow or child of a World War veteran, disallowed or abandoned prior to August 16, 1937, under such laws, may upon written notice from the claimant or the claimant's representative to the Veterans' Administration, be revived at any time prior to August 16, 1938; and when title is otherwise established, payments under Section 1, Public No. 304, 75th Congress (Act of August 16, 1937) shall commence August 16, 1937, date of approval of the Act, provided that in any claim adjudicated under Public No. 484, 73d Congress or Public No. 844, 74th Congress in which the claimant or the claimant's representative has not been notified of the disallowance thereof, or if a claim under Public No. 2, Public No. 141, or Public No. 484, 73d Congress or Public No. 844, 74th Congress was

pending on August 16, 1937, it shall be considered an application under Public No. 304, 75th Congress without the written notice required herein, and, if allowable only under the latter act shall commence August 16, 1937. (See subparagraph (D) (4) hereof)

(4) Because of the repeal of Section 1 of Public No. 304, 75th Congress, by Section 4 of the Act of May 13, 1938, awards may not be made authorizing payments under (1), (2) and (3) of subparagraph (D) hereof in any claim filed on or after the date of approval of the latter act.

(E) If the person who served died while receiving or entitled to receive pension, compensation, or retirement pay for a 10 per centum or more but less than 30 per centum disability directly or presumptively connected with service:

(1) May 13, 1938, or the day following the date of death, whichever is the later, if application is filed within one year from the date of death;

(2) The date of filing application, if application is not filed within one year from the date of death, but in no event prior to May 13, 1938;

(3) Any claim filed subsequent to March 19, 1933, and prior to May 13, 1938, under Public No. 2, Public No. 141, or Public No. 484, 73d Congress, as amended (Acts of March 20, 1933, March 28, 1934, and June 28, 1934) disallowed under Public No. 484, 73d Congress, Public No. 844, 74th Congress, or Section 1 of Public No. 304, 75th Congress, or abandoned prior to May 13, 1938, under such laws may, upon written notice from the claimant or a representative of the claimant to the Veterans' Administration be revived at any time prior to May 13, 1939, and when title is otherwise established payments under Public No. 514, 75th Congress (Act of May 13, 1938) shall commence on the date of its enactment; provided that in any claim adjudicated under Public No. 484, 73d Congress, as amended, in which the claimant or the claimant's representative has not been notified of the disallowance thereof, or if a claim under Public No. 2, Public No. 141, or Public No. 484, 73d Congress, or Public No. 844, 74th Congress, or Public No. 304, 75th Congress, was pending on May 12, 1938, it shall be considered an application under Public No. 514, 75th Congress, (Act of May 13, 1938), without the written notice required herein and if allowable only under Public No. 514, 75th Congress (Act of May 13, 1938) payments thereunder shall commence May 13, 1938.

(F) In the event a claim filed under this paragraph is not complete at the date of filing thereof in the Veterans' Administration, the claimant will be notified of the evidence necessary to complete the claim and if such evidence is not received within one year from the date of the request therefor, compensation will not be paid by reason of the filing of that claim. (May 13, 1938.)

#### RATES OF DEATH PENSION AND COMPENSATION FOR WIDOWS, REMARRIED WIDOWS, CHILDREN AND DEPENDENT PARENTS

*Rates Under Public No. 484, 73d Congress (Act of June 28, 1934), as Amended*

R-2640. The rates of death compensation payable under Public No. 484, 73d Congress, (Act of June 28, 1934) as amended are as follows:

	Per month
Widow but no child.....	\$22.00
Widow and one child.....	30.00
(With \$4 for each additional child)	
No widow but one child.....	15.00
No widow but two children.....	22.00
No widow but three children.....	30.00
(With \$3 for each additional child, total amount to be (equally divided)	

<sup>1</sup>Equally divided.

The total compensation payable under this paragraph shall not exceed \$56.00. Where such benefits would other-

wise exceed \$56.00 the amount of \$56.00 may be apportioned as prescribed in R. & P. R-2592 (F). (May 13, 1938.)

#### ACCURED AMOUNTS DUE AND UNPAID AT DEATH

*Accrued Compensation: Public No. 484, 73d Congress (Act of June 28, 1934) as Amended*

R-2664. The amount of compensation which has become payable to a widow or child under Public No. 484, 73d Congress (Act of June 28, 1934), as amended, but which has not been paid prior to death, may be awarded only for the purpose of paying the expenses of last sickness and burial, etc., of the deceased beneficiary and then only in the event that there are no funds available to the estate of the deceased for settlement of those expenses. (May 13, 1938.)

[F. R. Doc. 38-1522; Filed, May 27, 1938; 3:16 p. m.]

Thursday, June 2, 1938

No. 107

#### PRESIDENT OF THE UNITED STATES.

##### EXECUTIVE ORDER

AUTHORIZING THE ATTORNEY GENERAL TO SELL UPON PUBLIC EXCHANGES WITHOUT PRIOR ADVERTISEMENT CERTAIN PROPERTY HELD UNDER THE TRADING WITH THE ENEMY ACT

WHEREAS certain property held by the Attorney General of the United States as successor in interest to the Alien Property Custodian consists of shares of stock, bonds, notes, or other beneficial interests, which are listed on the various public exchanges and have an established and ready market; and

WHEREAS such property is not customarily sold, and cannot usually be sold to advantage, at public sale after public or other advertisement; and

WHEREAS public or other advertisement of the sale of such property, or an attempt to sell such property at public auction, would be a useless formality and would necessitate the incurring of unwarranted expenses and costs and would result in unnecessary inconvenience and delay:

NOW, THEREFORE, by virtue of and pursuant to the authority vested in me by section 12 of the Trading with the Enemy Act, approved October 6, 1917 (40 Stat. 411, 423), as amended, and in the public interest, I hereby authorize the Attorney General of the United States to sell any such property upon the various public exchanges, without prior advertisement, to any individual, corporation, partnership, or association, upon such terms and conditions, and in such lots or amounts as he may deem advisable.

FRANKLIN D. ROOSEVELT

THE WHITE HOUSE,  
May 31, 1938.

[No. 7901]

[F. R. Doc. 38-1546; Filed, June 1, 1938; 11:48 a. m.]

##### EXECUTIVE ORDER

ESTABLISHING THE TAMARAC MIGRATORY WATERFOWL REFUGE

##### Minnesota

By virtue of and pursuant to the authority vested in me as President of the United States, and in order to effectuate further the purposes of the Migratory Bird Conservation Act (45 Stat. 1222), it is ordered that all lands and waters acquired or to be acquired by the United States within the following-described area, comprising approximately 47,520 acres in Becker County, Minnesota, be, and they are hereby, reserved and set apart, subject to valid existing rights, for the use of the Department of Agriculture as a refuge and breeding ground for migratory birds and other wildlife: *Provided*, that any private lands within the areas described shall be-